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Senate

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

PRAYER

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

Gracious God, help us to listen to Your fear-dispelling words: ''Fear not, I am with you, I will never leave nor forsake you. You are mine for eternity.''

Lord, You remind us to seek to please only You and we will have nothing or no one to fear. Help us to face our fears, allow You to displace them with Your indwelling presence, and erase them with Your forgiving love. Free us to love ourselves as loved by You. Banish any frightening memories.

Holy Love, cast out our fear. You are our strength, wisdom, and courage. When we endure the qualified love of others, we can be sure of Your unqualified love.

We surrender our own control and trust You to guide us each step of the way. We need not manipulate people, but motivate them with Your love. We can trust Your guidance in decisions and Your solutions to the most complicated problems. Use our imaginations to picture and live Your best for our lives. We have nothing to fear. Thank You, Father, through our Lord and Saviour. Amen.

RECOGNITION OF THE ASSISTANT MAJORITY LEADER

The PRESIDENT pro tempore. The assistant majority leader is recognized.

Mr. NICKLES. Mr. President, thank you.

SCHEDULE

Mr. NICKLES. Mr. President, on behalf of the majority leader, I announce that this morning the Senate will resume consideration of S. 1061, the Labor-HHS appropriations bill. As under the order reached last evening, there will be 30 minutes of debate equally divided on the Nickles amendment, No. 1081, regarding Teamsters elections, to be followed by 30 minutes of debate equally divided on the Gregg amendment, No. 1070, regarding educational testing.

Following that debate time, at approximately 10 a.m. there will be a series of four stacked rollcall votes, including final passage of the Labor-HHS appropriations bill.

Following those votes, the Senate will begin consideration of S. 830, the FDA reform bill. Under the previous order, there will be 1 hour of debate under the control of Senator JEFFORDS, and 1 hour of debate under the control of Senator KENNEDY.

In addition, a cloture motion is expected to be filed on the FDA reform bill today. Also, it is anticipated that the Senate will begin consideration of H.R. 2107, the Interior appropriations bill.

Subsequently, following the ordered votes, which begin at approximately 10 a.m. this morning, additional votes are expected.

I wish to thank my colleagues for their attention.

MEASURE READ FOR THE SECOND TIME—S. 1160

Mr. NICKLES. Mr. President, I understand that there is a bill at the desk that is due for its second reading.

The PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1160) to provide for educational facilities improvement.

Mr. NICKLES. Mr. President, I object to further proceedings on this matter at this time.

The PRESIDENT pro tempore. The bill will be placed on the calendar.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

The PRESIDENT pro tempore. The clerk will report the pending business.

The assistant legislative clerk read as follows:.

A bill (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, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Gregg amendment No. 1070, to prohibit the use of funds for national testing in reading and mathematics, with certain exceptions.

Coats-Gregg amendment No. 1071 (to amendment No. 1070), to prohibit the development, planning, implementation, or administration of any national testing program in reading or mathematics unless the program is specifically authorized by Federal statute.

Nickles-Jeffords amendment No. 1081, to limit the use of taxpayer funds for any future International Brotherhood of Teamsters leadership election.

Craig-Jeffords amendment No. 1083 (to amendment No. 1081), in the nature of a substitute.

Harkin-Bingaman-Kennedy amendment No. 1115, to authorize the National Assessment Governing Board to develop policy for voluntary national tests in reading and mathematics.

Domenici (for Gorton) modified amendment No. 1122, to provide certain education funding directly to local educational agencies.

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

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KENNEDY addressed the Chair.

The PRESIDENT pro tempore. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, as I understand it, the time between now and 9:30 is evenly divided on the Nickles and Gregg amendments. Am I correct?

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

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The PRESIDENT pro tempore. That is correct.

Mr. KENNEDY. How much time then on each side?

The PRESIDENT pro tempore. Fifteen minutes on each side.

Mr. KENNEDY. Mr. President, I yield 5 minutes to the Senator from Minnesota.

The PRESIDENT pro tempore. The Senator from Minnesota is recognized.

Mr. WELLSTONE. I thank the Chair. Mr. President, I thank Senator KENNEDY.

AMENDMENT NO. 1081, AS AMENDED

Mr. WELLSTONE. Mr. President, we had an extensive discussion on the Nickles amendment last time. I just want to speak for a very brief period of time about it this morning.

Pending before a Federal court in New York, scheduled to be considered next Friday, is a motion by the election officer of the 1996 Teamsters election. A judge will make a decision then. And the problem with this amendment, Mr. President, is that it essentially tells the judge what to do.

I would like to say this morning that in many ways this reminds me of yesterday. This is an overreach. I think we are getting a little bit carried away with our power here.

My colleague from Oklahoma is a fine Senator. But he is not a judge. It is Senator NICKLES. It is not ''Judge NICKLES.'' We don't really have the right to tell a judge what kind of decision he should make regarding the 1989 consent decree. That is for the judge to decide next week.

Mr. President, it is true that we had an election, and it is true that it was not satisfactory. And, indeed, the investment that we made to make sure it was a clean and fair election lead to a report, and the election officer essentially saying there has to be a rerun; that this has to be done again. That is the way it is supposed to be. An election which is not a fair election means that you have to have another election. That is where we are heading.

Mr. President, my colleague from Oklahoma has said that the consent decree was neutral as to whether there would be any more money spent on the election—silent on that matter. If so, on the Kennedy amendment, what my colleague from Massachusetts has talked about is right on the mark; that we make a commitment that we will not do anything here that will overturn, or essentially contradict, that consent decree.

The judge makes the decision in New York next week. What are we as a U.S. Senate doing trying to tell that judge how he should decide? That is an overreach. That is not our business. I think it raises constitutional questions. But I also think it raises another set of questions. I said this last time. I will repeat it in the last minute or two that I have.

Whatever the intentions of my colleague—and I know they are good intentions—the fact of the matter is that there is a whole lot of people in the country who find the timing of the Nickles amendment to be suspect. I mean it comes in a relatively short period of time after a very successful justice struggle by UPS workers and by the Teamsters. It just looks like payback time. That is, I am sure, not his intention.

But the point of it is the timing is off. It doesn't look good for the U.S. Senate to be coming out on the floor of the Senate with an amendment like this short on the heels of this great victory for working people. And, in addition, it is an overreach. I mean we should not be telling the judge what kind of decision a Federal district judge in New York makes next week. I don't think it is constitutionally the right thing to do. I think it is probably unconstitutional. I don't think it is appropriate, and I hope that there will be a very strong vote against the Nickles amendment.

I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I yield myself 5 minutes.

Mr. President, the fact of the matter is, whether it is the intention or not the intention of those that propose this amendment, one can reach no other conclusion that this amendment is on the floor of the U.S. Senate because of the success of the Teamsters in the recent UPS strike. For the first time in many years, the Nation focused on the particular needs of part-time workers—their future, their security, and their well-being.

During that UPS strike, one of the key points that was made—and which I think resonated across the country—was that part-time workers don't have part-time mortgages, don't have part-time bills when they are feeding their children, don't have part-time bills when they are trying to work for their families, and bring up their families, and that in this Nation with our growing and expanding economy—and with the strongest economy that we have had in many years—part-time workers should not be excluded. That is the key issue. There are many of those that fought that issue. But, nonetheless, as a result of collective bargaining, part-time workers' needs were recognized. I think America understood this issue much better. Pension issues were resolved to try to ensure that we are not going to only have Social Security to rely on when they retire but at least have some benefit in terms of their pensions for men and women that work hard over a long period of time.

Those were the negotiations. Now there are many, and many in this body, that do not like the outcome of that particular measure. They have put this measure that is before us, which I think is really a reflection of that success.

The fact is, Mr. President, if we accept this amendment of Senators NICKLES and GREGG, we will be directly interfering with a consent decree that was agreed to by a Republican administration, agreed to by a Republican Attorney General, Attorney General Thornburgh, and it was heralded at that period of time as a great success by Republicans in trying to clean up corruption in a particular union. The fact is that when the Teamsters have a Teamster Union election, the Teamsters pay for it. But under that consent decree, if there are going to be Federal supervisors involved in this, and the Federal Government is going to be involved in ensuring that the election is going to be fair, then the Federal Government is going to be paying for this and participating.

We are not saying now and in the future when this matter is before the courts what the future is going to be, or whether there is going to be another election and who ought to pay for it. All we are saying is let the consent decree that is in place now continue to be respected and not be undermined by actions by the legislative body which is a direct interference into the separation of powers and into the judicial decision to have a consent decree by which the executive body agreed to.

That is the issue, Mr. President, and there are many important scholars that agree that, if we do have this kind of interference in a consent decree, we are going to subject this body to a contempt action because we will be interfering in a consent decree.

Mr. President, it seems to me that we ought to follow the regular order. This overall agreement consent decree is before the Southern District Court in New York. Briefs are being required by the middle of this month. There will be a judgment to be made by the judge in that decision. And we ought to respect that particular decision which has been agreed on and it is now a matter of consent decree. We should not interfere with a consent decree with a legislative intrusion. There are no funds in this appropriations affecting that particular settlement. And we have no business, as the Senator from Alaska has pointed out, a Republican, to be adding these kinds of extraneous issues into an appropriations bill. It makes no sense.

I withhold the remainder of my time.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, in listening to my colleagues, I heard, ''Well, the reason why this amendment is offered is because the Teamsters strike against UPS was a phenomenal success.'' I have never commented on that. But I don't know that I could consider success that they have 15,000 fewer workers today after the strike than they had before the strike.

I know that some people characterize it. But I will tell my colleagues, you can question my integrity or not, that is not the reason I am offering this amendment. I am offering this amendment because I read that taxpayers

paid $22 million for it. I don't know who won that strike. With strikes I think basically everybody loses. I think the company loses, and the workers lose. And if you have 15,000 fewer jobs, that is a loss. And certainly the company loses lots of money and lots of customers. So that is a loss.

But that is not the purpose of my amendment. The purpose of my amendment is that I didn't know that the taxpayers were paying for that election.

I thought, why did we pay for that election? Well, there was a consent decree order in 1989 that said we will have a couple of elections to deal with, 1991 and 1996. And they agreed in the consent decree to supervise all future Teamsters elections. It is in the consent decree. They said, in 1991, the Teamsters will pay for it. They said, in 1996, the taxpayers will pay for it. They were silent on any subsequent elections.

I want to make sure that we do not pay for it. I do not think we should have paid for the one in 1996. I did not know about it until after the fact. So if anybody wants to question my motives, I almost could put out—I am not questioning other people's motives. I have not raised the fact the Teamsters put in so much money in these elections, and so on. I have never said people are out here defending this because they received support. I am not going to do it. I am not questioning other people's motives.

I am a little sensitive to that statement because it was made last week, and I did not respond to it earlier this week and now it is repeated. That is infringing, or very close to infringing on Senate rules.

We have a right to say how money is appropriated in this body. My colleague from Minnesota said, well, maybe in this institution a consent decree overrides the Constitution. I do not think so. In the Constitution of the United States, article I, section 9 says, ''No money shall be drawn from the Treasury but in consequence of appropriations made by law.''

That is by Congress. Article I of the Constitution says, under congressional powers, Congress has the right to appropriate money. We have the right basically not to appropriate money, and that is what this amendment says. This amendment says we do not want to spend another $22 million. We can supervise the election. Frankly, we have to supervise the election. The consent decree says we will supervise the election.

What happened in the last election? According to the report that was done by the election officer of the Teamsters' last election, ''The violation of the rules described above were not merely''—this is a quote from her report, and I will put it into the record. ''The violations of the rules described above were not merely technical but products of schemes to funnel union and outside money into the election and thus change the outcome. These were egregious violations by high level functionaries who believed that winning at all costs was more important than abiding by the rules and the law. Members cannot have confidence in their union or its leaders if they see that their choice of officers has been manipulated by outsiders. The election officer has searched for means of properly remedying the violations while at the same time avoiding the burden on the union and its members inherent in holding a new election. Unfortunately, no such path is apparent.''

Mr. President I will ask unanimous consent that at least these two pages of the report of the election officer be printed in the RECORD.

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

ELECTION OFFICER FOR THE INTERNATIONAL BROTHERHOOD OF TEAMSTERS

In re: Jeraldine Cheatem; Robert H. Spearman; Jim Hoffa—No dues increase—25 and out slate; Jerry Halberg; James P. Hoffa.

DECISION CORRECTION

The first full paragraph on page 130 should read as follows:

An order of the Election Officer, unless otherwise stayed, takes immediate effect against a party found in violation of the Rules. *In Re: Lopez*, 96—Elec. App.—73 (KC) (February 13, 1996). However, the fines levied in Part III(C) of the decision are not final and are not to be paid until such fines are ordered by the Court upon application of the Election Officer.

Dated: August 21, 1997.

BARBARA ZACK QUINDEL,
Election Officer.

ELECTION OFFICER FOR THE INTERNATIONAL BROTHERHOOD OF TEAMSTERS

In re: Jeraldine Cheatem; Robert H. Spearman; Jim Hoffa—No dues increase—25 and out slate; Jerry Halberg; James P. Hoffa.

SUMMARY OF DECISION[1]

The Election Officer for the International Brotherhood of Teamsters (''IBT'') was appointed by the U.S. District Court for the Southern District of New York to supervise and conduct the rank-and-file election for International officers to ensure a free, fair and informed process. Her duties arise from the 1989 Consent Decree approved by the District Court in a case brought by the government under federal racketeering laws. The ballot count in the 1996 International officer election concluded on February 27, 1997. This decision follows the investigation of numerous post-election protests.

Part I of the decision addresses several protests which challenged the fairness and accuracy of the ballot count. Following a detailed explanation of the receipt, processing, and count of the ballots, those protests are denied.

Parts II and III of the decision address allegations that non-IBT members made $221,000 in improper contributions to Teamsters for a Corruption Free Union (''TCFU''), a fundraising committee of the Ron Carey Campaign. The Election Officer concludes that the contributions violated the Election Rules' prohibition against employer and IBT contributions.

The TCFU contributions were used by the Carey Campaign to fund approximately 40% of a direct mail get-out-the-vote program. Given the small margins between the winning candidates on the Carey slate and the losing candidates on the Hoffa slate, the * * *

* * * in their attacks on the positions, records, and integrity of the opposing candidates. One may question whether such campaigns are the most effective in winning votes or even building democratic institutions, but no one can question that this campaign was as open and competitive as any undertaken in an American labor union in recent history.

Preserving the new open spirit within the IBT requires some sacrifice. Certainly the hardship on the candidates and the members of rerunning so massive an election is a factor to weigh in this decision. A rerun election inevitably affects the Union as an institution, as many of its leaders, at both the local and national level, become diverted from the central work of bargaining and enforcing contracts and organizing new members. Many members of this Union want nothing more than to return to the basic tasks of trade unionism and have looked forward to a respite from the almost ceaseless campaigning of the past two years. However, there are even greater dangers if strong action is not taken when employers secretly attempt to influence the election of IBT officers. The violations of the Rules described above were not merely technical, but products of schemes to funnel Union and outside money into the election and thus change the outcome. These were egregious violations by high level campaign functionaries who believed winning at all costs was more important than abiding by the Rules and the law. Members cannot have confidence in their Union or its leaders if they see that their choice of officers has been manipulated by outsiders. They cannot have confidence in the Consent Decree if Court officers do not take effective action to prevent and remedy such misconduct.

The Election Officer has searched for a means of properly remedying the violations while at the same time avoiding the burden on the Union and its members inherent in holding a new election. Unfortunately, no such path is apparent. The election of International officers is the clearest expression of the control of members over their union; it is also the key to insuring that organized crime, employers, or any other outsiders do not use the Union for their own purposes. To avoid a rerun because of the disruption it brings could allow this union to lose its most valuable resource: the support, participation, and confidence of its membership. Such a result cannot be allowed.

Because the violations of the Rules described above may have affected the outcome of the election and further threatened the integrity of the process, the Election Officer hereby orders a rerun election for all International officer positions except Central Region Vice * * *

Mr. NICKLES. Mr. President, how much time remains on both sides?

The PRESIDING OFFICER. The Senator from Oklahoma has 9 minutes 30 seconds; the Senator from Massachusetts controls 6 minutes and 30 seconds.

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

The PRESIDING OFFICER. Who seeks the floor?

Mr. KENNEDY. How much time remains again?

The PRESIDING OFFICER. The Senator from Massachusetts controls 6 minutes and 30 seconds.

Mr. KENNEDY. And the other side?

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[1] This summary has been prepared by the Office of the Election Officer for the convenience of the parties and the general reader. The summary is not part of the decision and may not be cited before the Election Appeals Master, the District Court, or any other tribunal.

The PRESIDING OFFICER. Nine minutes and fifteen seconds.

Mr. KENNEDY. I yield 4 minutes to the Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland is recognized for 4 minutes.

Mr. SARBANES. Mr. President, I urge my colleagues to oppose the Nickles amendment. This represents an unjustified intrusion by the Congress into the decades-long effort by Federal prosecutors to rid the International Brotherhood of Teamsters of corrupt influences.

That is what is involved here, it is the effort to drive corrupt influences out of the Teamsters Union. Now, that effort has been vigorously pursued by both Republican and Democratic Departments of Justice. It culminated in litigation and ultimately a consent decree between the International Brotherhood of Teamsters and the United States. This was a consent decree entered into by the Bush administration and Attorney General Thornburgh, who hailed this as a major achievement, which I concede it was. And now Congress, with this amendment, is seeking to interfere in that law enforcement effort at a vital moment.

In the 1989 consent decree, the Federal Government effectively entered into a contract to pay for the supervision of the 1996 election. In fact, the consent decree is very clear in stating, ''The union defendants consent to the election officer at Government expense to supervise the 1996 elections.'' And the rerun election we are talking about is the 1996 election, which has not been certified. It is now back before the court.

Now, this amendment breaches that agreement. It in effect violates the consent decree.

It is asserted that unions typically pay for their own elections. That is quite true. But in those elections they do not have election officers, and they do not have Federal supervision of the election. What the consent decree said was that the union would pay for the 1991 election and that the 1996 election would be supervised under the consent decree at Government expense.

Now, the Teamsters already pay $3 to $4 million annually for consent decree activities related to the effort to prevent corruption. Between 1990 and 1995, they incurred costs in excess of $40 million in complying with its obligations and responsibilities under the consent decree.

The danger with this amendment is that if the Government goes back on its undertaking to pay for the supervisory costs of the 1996 election, you will take the Teamsters out from under the necessity of having an election officer. You do not ordinarily get election officers to supervise union elections.

My colleagues on the other side will say, well, what did we get out of it? What we got out of it was the continued supervision of the union elections into the 1996 election to help ensure that corrupt influences would not creep back into the union and affect its legitimate operations. The executive branch agreed to this consent decree.

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

Mr. SARBANES. It is embodied in a court order.

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

Mr. SARBANES. And this amendment blatantly violates that court order. I urge my colleagues to reject this amendment.

Mr. President, we reserve the remainder of our time.

The PRESIDING OFFICER. Who seeks the floor?

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I heard the comments of my colleague from Maryland, but he is incorrect. The consent decree that was agreed to in 1989 stated that the Teamsters would pay for the election. I will just read it. ''The union defendants further consent to U.S. Department of Labor''—this is from the consent decree, page 16—''supervising any IBT''—that is the Teamsters, International Brotherhood of Teamsters—''elections or special elections to be conducted after 1991 for the office of President, Secretary, Treasurer, Vice President and Trustee.''

They have agreed to supervision. And the Federal Government supervised the 1991 and 1996 elections. What was unique about the 1996 election, we paid for it as well. We conducted it. We paid $22 million. I hope all my colleagues understand that. We paid $22 million, the Federal taxpayers paid $22 million for the 1996 election. It was the one that was determined to be corrupt. We did not do that in 1991.

What was the difference? I think people are a lot more willing to cheat maybe if it is somebody else's money. And they did. There was corruption with the taxpayers' money.

We will still have supervision. My amendment does not prohibit supervision. It does not abrogate the consent decree. The consent decree, frankly, was silent on who would pay for any subsequent elections. I even called the former Attorney General and asked him. No, we did not say anything about that. I read this section. It is not there.

Now, some people would like to interpret it as, oh, the taxpayers will pay for this forever. If there is corruption in the next election, the taxpayers will pay for it. If there is corruption in the next election, we are going to continue having taxpayers get stiffed. In this case, the Teamsters got hurt. I am talking about members of the Teamsters. Union members got hurt because they had a fraudulent election. They have to have it again. And the taxpayers got hurt. I am trying to say it wasn't the taxpayers' fault there was fraud last time. We should not have taxpayers getting ripped off again.

What is the cost of this? Twenty-two million dollars. Every other union in the country pays for their own election. Every other union in the country. This is not a group that is not doing well. Senator KENNEDY and Senator WELLSTONE have been bragging how well they did in the contract. I do not know what kind of improvements they got. I did check; I think the average wage is about $27 an hour, wages and benefits. That is pretty good. That is $50,000-some a year. In the last election, the taxpayers paid $22 million; there are 1.4 million Teamsters; a little less than 500,000 voted. That is a cost to the taxpayers of about $45 a vote. That is pretty high. If the Teamsters have to pay for this themselves, I calculate it is about $15 a member. That is about a half-an-hour's pay. But they should have to pay for it. When any other union has an election, when the Teamsters have an election, they pay for it. The taxpayers should not have to pay for this.

So, Mr. President, this amendment is consistent with the consent decree. We are just trying to make it perfectly clear we are not going to pay for the next one. And for anyone to say, well, wait a minute; we don't have the right to do that, they are not reading the Constitution. The consent decree does not say anything about a future election. Maybe they would like to have the discretion, and if the Teamsters have a good attorney they can convince some judge, well, maybe this will be a continuation and therefore taxpayers should pay for it, but that is not in the consent decree. And frankly that should not happen.

By passing this amendment—and I am optimistic that we will pass this amendment—we say we are not going to pay for it again. We got ripped off once. We paid $22 million for a fraudulent election. We, being the taxpayers, paid $22 million for a fraudulent election last time. We should not do it again. Frankly, we are not going to do it again.

Do we have the right to do this? Somebody said the consent decree supersedes law. No way in the world. I will read a memo that came from Deputy U.S. Attorney Jamie Gorelick. This is dealing with the Antideficiency Act, but she said, ''You should be particularly mindful of this restriction if you are contemplating entering into any consent decree. Please ensure the terms of the consent decree do not obligate the government to spend funds beyond your office litigation budgets or beyond the current fiscal year.''

They know that. The CRS did some study on the 1989 consent decree, and this was dated May 18, 1995. ''Legislation enacted by Congress limiting or restricting funds for the 1996 election would be Federal law and Government parties would be bound to take appropriate action in reliance of that law.''

That would be if we had denied funding for the 1996 election. We didn't do that. What this amendment will do is say we are going to deny taxpayers' subsidy to the 1998 election. We can

still have supervision. As a matter of fact, there will be supervision. There will be supervision on any subsequent election, but it will not be paid for by the taxpayers. Let the Teamsters pay for it. They are the ones who engaged in this corruption. And if anyone looks at the report of the election observer, she talks about ''outside money into this election and thus change the outcome.'' She said there ''were egregious violations by high level campaign functionaries who believed winning at all costs was more important than abiding by the rules and the law.''

I do not want to repeat that. If we allowed the opponents of this amendment to prevail, we could have the exact same thing happen again. We could have another election. We could have more corruption, and they would be coming back to say, oh, we want you to pay for it again.

There is no end to what they say would be the outflow of Government dollars. I do not think it is needed. I do not think it is necessary. We got ripped off once. We should not be ripped off again. And so I urge my colleagues to adopt the Nickles-Jeffords-Gregg amendment.

Mrs. BOXER. Mr. President, I rise today in opposition to the Nickles amendment to prohibit Federal funding to the Teamsters election an amendment to the Labor-HHS appropriations bill. I believe this amendment is a clear violation of the 1989 consent decree entered into by the Department of Justice and the International Brotherhood of Teamsters.

The consent decree required, among other things, that the 1996 Teamsters' election be subject to the supervision of a court-appointed election officer, at Government expense. Due to problems uncovered related to the campaign of the elected president, however, the court-appointed election officer has refused to certify the 1996 election and has asked a Federal court in New York to formally order a new election. Inasmuch as any court ordered election is a continuation of the 1996 election, it seems clear that the rerun election must also be subject to the terms of the consent decree—including the portion of the decree which provides ''The union defendants consent to the election officer, at Government expense, to supervise the 1996 elections.''

I think it is important to recognize that this is not, or at least should not, be a partisan issue. It was a Republican administration and thus, a Republican-controlled Department of Justice, that obligated the Federal Government to the financial obligations outlined in the 1989 consent decree—not a Democratic administration. Rather, the Democratic administration, under President Clinton, is simply living up to the obligations of the consent decree. If the Nickles amendment passes, the Government would be prohibited from paying for the rerun election and thus, could be held in contempt of court for failing to adhere to the terms of the consent decree. Again, this rerun election is not a new election; rather, it is necessary to complete the 1996 election, and thus is subject to the 1989 consent decree.

So I urge my colleagues to oppose the Nickles amendment and to support this very important consent decree to which the Government obligated itself in 1989. Thank you Mr. President.

Mr. NICKLES. Mr. President, what is the situation on time?

The PRESIDING OFFICER. The Senator from Oklahoma controls 2 minutes 45 seconds; the Senator from Massachusetts controls 2 minutes and 30 seconds.

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

Mr. KENNEDY. Mr. President, I yield the remaining time to the Senator from Maryland.

Mr. SARBANES. Mr. President, I have been listening very carefully to my colleague from Oklahoma. I am beginning to wonder, what is happening to this tremendous effort to drive corruption out of the Teamsters union? The Senator quoted a memorandum from Deputy Attorney General Jamie Gorelick, which is dated after the 1989 consent degree. I say to my colleague from Oklahoma, you cited this memorandum of Deputy Attorney General Gorelick which comes after the 1989 consent decree. The consent decree was entered into by Attorney General Thornburgh and the Bush Administration. So, now we are told that a later memorandum is going to vitiate the earlier consent decree. How is that for undoing the law?

The Senator is playing with fire. If this rerun is not the 1996 election, then the results of the 1996 election ought to hold and there should not be a further election. This is not a new election. This is a rerun of the 1996 election.

The Senator selectively quotes from the consent decree. The consent decree is very clear. It says, ''The union defendants consent to the election officer, at Government expense, to supervise the 1996 IBT election.'' He omitted that part of the consent decree. My colleague then quotes, ''The union defendants further consent to the Department of Labor supervising IBT elections.'' That supervision, I say to my colleague, by the Department of Labor, does not encompass an election officer and it does not encompass the severe degree of supervision that comes with an election officer. What is the objective here? Is the objective to get the Teamsters out from under the consent decree so they don't have to use an election officer in doing this rerun of the election? If that is the objective, I strongly disagree with it. Having an election officer serves a public interest.

Then we are told every other union pays for its own elections. We have heard that time again and again, but they don't have an election officer to supervise their elections.

The PRESIDING OFFICER. All time has expired.

Mr. SARBANES. I urge my colleagues to oppose this amendment.

AMENDMENT NO. 1070

The PRESIDING OFFICER. There will now be 30 minutes of debate equally divided on amendment No. 1070.

Who seeks the floor? The Senator from Indiana.

Mr. COATS. Mr. President, we are debating, here, under this limited time agreement, an issue that has received considerable discussion. There is considerable controversy over the issue of national testing. It has received enormous attention.

When the issue was first raised in the context of this appropriations bill, Senator GREGG and I offered an amendment expressing our concern that we were going forward, here, with an issue of considerable controversy, without it being authorized and without hearings and without discussion as to the implications of this. We felt it deserved a full public discussion because there was great controversy over the idea of national testing.

Unfortunately, the decision that was made on the part of the administration was to go forward with this initiative without congressional authorization. We attempted to address that issue with our amendment. But last August, without congressional approval or statutory authority, the Department of Education announced that it would develop a national test to be implemented in the spring of 1999, and went forward and awarded a $13 million contract to a consortium of testing companies. Instead of turning the proposed test program over to the National Assessment Governing Board, an entity with 10 years of experience in this area, the administration intended to bypass this procedure. Senator DORGAN spoke on the floor. We raised the issue. Senator DORGAN responded by saying he agrees with us that we would be far better off getting this out of the hands of the Department of Education and into the hands of an independent assessment agency to address some of this controversy about the Federal direction of how the test is derived and how it is administered and so forth.

The President, in his radio address a week ago, stated that he would concede to the argument that many were posing, that this would be better if not designed and directed by the Federal Government. That, then, opened the door to our trying to find a way to constitute an outside independent agency to write the test and administer the test. Many of us, even with that, expressed real concerns about the whole concept of a national testing program versus allowing these decisions to be made at State and local levels. But it was clear that the issue was going forward. So, in response to that, what we attempted to do was negotiate with the administration, with our Democrat colleagues and others, to comply, essentially, with what Senator DORGAN was suggesting we do and what the President was suggesting we do. The initial proposal that the President had outlined maintained what we thought was

a link with the Harvard education administration, which simply fueled the controversy.

So, over the last several days we have had considerable discussion and negotiation with the administration on this, attempting to improve this process and really to reserve further debate, on whether there ought to be national testing or not be national testing, for the conference committee and for this body. There is a division of opinion on that, a division all along the ideological spectrum. Former Secretary of Education Bill Bennett said national testing can be beneficial if done the right way, if not manipulated to achieve a certain result or to drive a curriculum, but as an assessment tool.

I quote from an article written by his former assistant, Chester Finn, Jr., who says:

> Properly done, standards-based national tests would provide useful information to students and their parents and put pressure on schools to improve.

Congress, which created the National Assessment Group, NAGB, could easily design a program which would achieve the goals of national testing, being a useful tool in improving public education.

> The crucial questions [he says] about any test are who decides what's on [the test] and who sets the standards by which student performance is judged.

We have set out to do that. I am pleased to announce that late last evening we were able to achieve agreement with the administration on the conditions upon which this would go forward. Under the agreement, and I will briefly explain it, no school or school district will be forced to use the national test if they don't want to. It is strictly voluntary.

We also have provided that no school not using the test will in any way be denied the Federal funds that come to that school for various purposes. So, receipt of Federal funds is not conditioned on their using or not using the test.

Further, we have provided that no private or parochial school or home-schooled individuals are forced to take a test without their consent. That was a legitimate response to some questions raised by home-schoolers and private and parochial schools. This is a key provision. Currently, States are using a variety of testing instruments to determine how their students are performing. Yet, according to many experts, this patchwork of tests does not provide a common yardstick by which parents and educators can compare results. And while it is true that testing won't help children learn more, it is equally true that testing can give us valuable information about how we are doing, and will ultimately be useful in providing tools for parents to use in holding schools accountable for their results.

Second, the changes that we have made allow the National Assessment Governing Board the exclusive authority over all policies, directions, and guidelines for establishing voluntary national tests for fourth-grade English reading and eighth-grade mathematics. To assure NAGB's independence, the amendment provides that NAGB shall have the sole authority to award grants and contracts and otherwise operate independently of the Department of Education. The compromise which we reached gives NAGB 90 days to review and make substantial changes, if needed, in the contract negotiated by the Department of Education.

Third, we have directed NAGB to ensure that the content and the standards for the national test are the same as those for the National Assessment of Educational Progress test, the NAEP tests. The President has stated on numerous occasions his intention to have voluntary national tests based on the well-respected, high standard of the NAEP test, and this amendment accomplishes that.

Fourth, we have made numerous changes to the composition of the 25-member board, NAGB, to ensure bipartisanship and a new focus on locally elected officials rather than the so-called Washington experts. These changes include the addition of a current or former Governor, bringing the total number of Governors on the board to three; the addition of a new category, allowing participation of two mayors; two additional representatives of business or industry, bringing the total of that to three; and the elimination of five curriculum or testing experts who were employed by the board but should not have had voting privileges, a potential conflict of interest there. We have also increased the length of the terms on the board from 3 to 4 years in order to provide for more continuity.

Fifth, the amendment returns to NAGB the authority it had prior to 1994 to nominate individuals to fill vacancies which occur on the board. Under this process, the Secretary must select from candidates nominated by NAGB. The amendment provides a 30-day transition, so that current vacancies and newly created positions are filled by the Secretary after consultation with the House and the Senate.

These changes are critical to ensuring that national testing is under the supervision of an independent, bipartisan agency and not the Federal Department of Education.

There is no doubt that standardized tests assess performance, but they do not generate it. Yet I am increasingly convinced that giving parents a better and possibly more accurate picture of their child's academic performance will help them obtain the best education for their child. These tests are simply another tool for parents to use in holding local schools and local systems accountable for providing the kind of opportunities for educational achievement that all children in America deserve.

Mr. President, I have other Members who wish to speak on this. I reserve my time at this particular point.

The PRESIDING OFFICER (Mr. HAGEL). The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, let me start by complimenting the Senator from Indiana for the compromise that we have worked out here. I am pleased to cosponsor that compromise amendment with him. I do think the essential point to be made here is that through this amendment, this compromise amendment, we transfer control of the development of voluntary national tests over to this independent governing board that is referring to as NAGB, the National Assessment Governing Board. This is essentially the same approach that was suggested by Secretary Riley and proposed by myself, Senator DORGAN, Senator HARKIN, and offered in the amendment 1115 which we offered last week. More important, the amendment will allow the test development process to continue without any undue delay.

Let me say a word about what NAGB is, because it would now be the organization or the entity with this responsibility. The governing board that now will oversee the development of these tests is the National Assessment Governing Board. It was established in 1988 by the Congress. It is bipartisan. It is independent. As Senator COATS indicated, it contains Governors, legislators, superintendents—now it will contain some mayors, business people, experts in education as well; and the core responsibility of this group has been to oversee the development and execution of NAEP, the National Assessment for Educational Progress. This test that we are talking about here, which will be available on an individual student basis, is to be an outgrowth of that National Assessment of Educational Progress test, which is well respected and has been for a long time.

Let me point to two charts here, and then I know Senator KENNEDY wishes to speak, Senator WELLSTONE and Senator DORGAN. I want to defer to them.

Mr. President, how much time remains, and is the time controlled or is it uncontrolled at this point?

The PRESIDING OFFICER. Time is equally divided. The Senator from New Mexico has 11 minutes.

Mr. BINGAMAN. I yield myself an additional 5 minutes, and then I will divide the remaining 6 minutes among the three Senators I indicated before.

Let me first point to this chart which I think makes the case for these tests that the President is talking about and that many of us have supported. At the present time, we have a hodgepodge of tests that have been developed around the country that are given to students and then the results of which are given to parents, and they are told that this is an accurate description of how their child is doing in school.

The reality is that some parents and some students are led to believe that

they are performing at acceptable levels and are led to believe that the education they are receiving is an appropriate education. They don't find out the reality until they apply to college or get in the workplace and find they do not have the skills or the training they need.

This chart shows a comparison between the standards that have been adopted by many States and the standards set by this National Assessment for Education Progress, or NAEP. You can see the dramatic difference. For example, in the case of Wisconsin, 35 percent, according to the National Assessment for Education Progress, which is the standard we are trying to give people information on, 35 percent of their students were performing at acceptable levels. According to the standard used by the State of Wisconsin, 88 percent of the students were performing at acceptable levels.

In the case of Louisiana, the disparity is even greater. The State of Louisiana indicated that 88 percent of their students are doing fine. When you look at what the National Assessment for Education Progress given to students in Louisiana indicates, only 15 percent of their students were doing fine. So there is a dramatic disparity there.

What we are trying to do is get good objective information to parents throughout the country.

This is strictly voluntary. No State needs to use this test. No school district needs to use this test. No individual student needs to take this test. And if parents want to ignore the results of the comparison, they can, but it needs to be available to those who want to use it.

This other chart I want to show is a listing of the States that have already chosen to use this voluntary test once it is developed. There are several States listed here: Alaska, Kentucky, Maryland, Massachusetts, Michigan, North Carolina, and West Virginia. There are many other States, including my own, which are thinking seriously about it. They have not taken any formal action to commit themselves to use this test, but they are looking at it and they are very interested.

There are 15 school districts in our major urban areas that have indicated they wish to have the advantage of the benefit of taking this test or using it in their schools.

All this amendment will do is to allow the development of the test, allow us to go forward with the development of the test so that it will be available to these States and to these school districts to the extent that they choose to use it.

I believe this is a very good course to follow. I think this is the right thing to do for our students, it is the right thing to do for the parents of these students so that they can show with some accuracy whether their children are getting the kind of education that they are going to need in later life.

I very much support the effort the Senator from Indiana has made here. I hope we can adopt this amendment with a large margin.

Mr. President, I defer to the Senator from Massachusetts for a couple of minutes for him to make his statement.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, first of all, I congratulate Senator COATS, Senator GREGG, and our Republican friends for working with the administration and working with concerned Members in fashioning this compromise.

I think there are basically two fundamental approaches that we ought to be doing for our children. One is we ought to have support systems and, secondly, we ought to have accountability.

What we are trying to do with this testing program is empower parents, empower parents so that they know how their children are doing, and then to ensure that we are going to have support systems to help those parents.

We are seeing an expansion, hopefully, of our literacy program. We have an expansion of our basic skills program with the math and science, with the title I programs. We have seen the support for our technology program. Under Senator JEFFORDS, we are going to see an expansion of teacher training. Under our Goals 2000 program, 90 percent of the money goes locally to help the local schools meet these standards.

So what we are trying to do is have the support systems for our children, but on the other end we want to have accountability for parents and for children so they know how they are doing. If children do not know how to read, as 40 percent of them do not at the fourth grade level, they are going to be in trouble in terms of continuing their education, the problems of dropping out and all the other challenges which they are going to face.

This is really an enormously important effort to try and address that very considerable concern for every family in this country. We welcome the strong bipartisan effort we are seeing reflected on the floor at this time.

I thank the Senator from New Mexico.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, can I inquire how much time is available on each side?

The PRESIDING OFFICER. Five minutes to each side.

Mr. COATS. I yield 2 minutes to the Senator from Missouri.

Mr. ASHCROFT. Mr. President, I thank the Senator from Indiana. I rise to indicate my opposition to a national individualized testing system that could lead to a one-size-fits-none curriculum dictated from Washington. Once you let Washington decide what kids should know, it will effectively control what and how they are taught.

President Clinton's initiative for a federally funded testing system already is headed down this slippery slope—work on the tests is currently underway. Here is what we know about them:

First, there is the eighth grade math test. Instead of measuring competence in basic computational skills directly, the test under construction would allow students to use calculators at all times. Some local parents, organizations, and States might decide they don't want to be controlled by a curriculum that only has reference to calculators. They might really want their young people to learn how to do mathematics absent calculators.

Furthermore, the content being tested, which ignores algebra, would not promote higher achievement or hold up to international competition.

Hundreds of mathematicians, teachers, school board members, parents and others recently signed a letter to President Clinton protesting the failed design of this math exam.

In testing reading, when you have a national uniform test, one size fits none. The proposed fourth grade reading test is predicated on the same philosophy of reading that drives what is known as whole language instruction. Under this philosophy, it is not as important for children to learn the difference between nouns and verbs as it is for students to analyze an author's feelings about what is written.

If a national test imposes a whole language approach to reading and rejects the phonics approach, what are we saying to parents about the potential for local control if those parents don't have a capacity to say we want our kids to learn reading by using phonics and we want a test that reinforces that kind of learning? Parents at the local level need to be able to decide if they want their fourth graders to learn the basics of the English language, not merely get in touch with an author's feelings.

I understand that the Nation needs to know where we are academically as a nation. However, we already have a capacity to assess student performance on a national level. Since 1969, the National Assessment of Educational Progress has tested a representative sample of students in 4th, 8th, and 12th grades in reading, U.S. history, geography, math, and science. NAEP has provided the Nation an understanding of overall student performance while allowing decisions on appropriate tests for individual students to be made at the local level. While NAEP allows a measure of student performance by sampling, an individualized testing system threatens local control substantially.

In my judgment, national uniform individualized testing will ultimately direct curriculum, curriculum which will become nationalized and uniform. This will take from the system the energy of the kind of curriculum that can be developed to suit local needs and will involve parents in education.

The real test before us today is whether or not the President is willing to trust parents and teachers at the local level to determine what their children should learn. The single most important factor in educational achievement is parental involvement. It is more important than computers, than blackboards, than teacher salaries, than the nature of the school facility. Whether parents are actively engaged means a lot.

If we nationalize our system of education for elementary and secondary students, we will have made it far less likely that parents will be actively involved. Parents can and should get good information about the progress of their children. That is possible at the State and local level. However, national, individualized tests would seriously threaten parental involvement and control and lead to more Washington intermeddling in our schools.

I just want to indicate that I think nationalizing the testing process for our schools will drive us to a national curriculum and drive us to national teacher certification. I believe States ought to have the authority to certify teachers and develop a just curriculum, particularly as it relates to trying new methods of teaching.

Many of America's schools are failing; they are failing to teach our kids how to read, write, and count; they are failing to offer them the skills to compete effectively in the information age; they are failing to teach them what America is and what she represents in the long history of the world.

Involved parents controlling and directing schools that teach basic academic skills have been, and should always be, the foundation of our educational system. These are the building blocks that made America's schools the envy of the world. They are the standards upon which we must base their return to greatness.

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

Mr. COATS. Mr. President, I yield 1 minute to the Senator from Vermont. Before I do, let me just say that I recognize the legitimate concerns that the Senator from Missouri has raised, and that is why we negotiated a totally voluntary process and exemption for any school, any individual, any school district that does not want to participate does not have to participate without any jeopardy of losing any funds.

So whether it is a home school, private school, parochial school, individual school district, whatever, if they agree with the Senator from Missouri—and I believe he raises some legitimate concerns—they don't have to participate in this at all.

I now yield to the Senator from Vermont.

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

Mr. JEFFORDS. Mr. President, I rise only to commend those who have brought about this very reasonable compromise. This could have been a very divisive issue, but Senator BINGAMAN, especially Senator COATS and Senator GREGG have worked very long and hard to make this into a reasonable compromise which will be of assistance to us rather than something that could have been detrimental. I yield the floor.

Mr. BINGAMAN. Mr. President, I yield 2 minutes to the Senator from Minnesota.

Mr. WELLSTONE. Thank you, Mr. President.

I congratulate my colleagues. I am going to vote for this, but it is a close call. I have some sympathy for the comments made by the Senator from Missouri. I would like to, in the midst of people feeling good about this work, sound a cautionary note. There are different ways of measuring accountability rather than just standardized tests. If teachers have to use the standardized tests, it will be educationally deadening, and I worry about the worksheets becoming the primary way we are teaching.

The second point I want to make, I say to my colleagues, is it is true, we have to have standards in accountability, but if we don't do anything to dramatically transform the concerns and circumstances of these children's lives, we already know which children are going to do well on these tests and which children are going to fail. If I had a criticism to level, it would be more at my party and more at the administration.

The fact of the matter is, we are investing not anything in rebuilding crumbling schools. Where is the President and the administration on this? The fact of the matter is, we are not even reaching 1 million Head Start students. I was out here on the floor yesterday talking about that. The White House did not even ask for enough money to cover 1 million. Why can't we do more by way of Head Start, early childhood development, reinvest and build schools as opposed to having these dilapidated crumbling schools in this country? What did we do when we cut food stamps, which is the major food nutrition program for children, 20 percent by 2002?

In all due respect, these tests are a small move in the right direction, but they are use just a technical fix and are just symbolic and do not do much until we finally make a commitment to make sure there is equal opportunity for every child in this country. We are a long, long, long way away from that in the U.S. Senate or the U.S. House of Representatives. I call on the President to show much more leadership when we are talking about children and education.

Mr. BINGAMAN. Mr. President, I ask unanimous consent to have Senators DORGAN and HARKIN added as cosponsors.

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

Mr. BINGAMAN. I yield the remainder of my time to the Senator from North Dakota.

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

The PRESIDING OFFICER (Mr. ROBERTS). The Senator from North Dakota has 3 minutes.

Mr. DORGAN. Mr. President, while I agree with my colleague, the Senator from Minnesota, on the entire discussion about deteriorating schools and equal opportunity and a range of other things, this issue is very simple. This issue is about national testing. It is not about a national curriculum. It is not about investing in schools. It is national testing.

The reason I support this is we can either decide as a country to figure out what we are getting from this educational system and have some kind of national testing to determine are we reaching achievement levels in the fourth grade and eighth grade or we can have no such approach.

The other body is passing legislation that would prohibit any approach of this point. ''We don't want to evaluate what is happening,'' they say. That is a very strange position.

It seems to me you ought to evaluate if children can read sufficiently at the fourth-grade level because these are gateways to the rest of their educational life. If you can't read sufficiently at that level, you are not going to do well the rest of your educational life. So we are talking about can children read in fourth grade. Do they have a mastery of the mathematics principles in the eighth grade they need? This is what this is about: national testing to evaluate in these two areas.

It is voluntary. Any child may opt out. Any school may opt out. Any State may opt out. It is purely voluntary, but it does say, as a country, we aspire to reach achievement levels and aspire to give our parents across this country the opportunity to understand what are we getting for the education dollar we are spending, where are the problems and how do we fix them. That is what you get with this kind of national testing opportunity.

Again, it is not about national curriculum. It is not about a national requirement. It is a voluntary approach to national testing to determine whether our children can read sufficiently in the fourth grade and perform the basic tests of mathematics in the eighth grade. To the extent we do that as a country, we will aspire to better understand our education system, better understand what we are getting for our education dollar, and in that way I think will be able to improve the system of education in this country.

I appreciate very much the cooperation of the Senator from Indiana, the Senator from New Hampshire, and others, and especially the leadership of the Senator from New Mexico. Doing this today I think is a step forward for the American people and is in marked contrast to what we are going to see come

from the other body. I hope when we go to conference we will accept the Senate provision because it is moderate, thoughtful and the right thing for this country and its children.

Mr. President, I yield the floor.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, I appreciate the remarks by the Senator from North Dakota. He raised the issue, and in a sense extended the offer to make the adjustments necessary to make this truly an independent effort and a constructive effort. His support in all of this is much appreciated, along with the Senator from New Mexico.

AMENDMENT NO. 1070, AS MODIFIED

Mr. COATS. Mr. President, on behalf of Senator GREGG and myself, I send a modification to the desk. I ask for its modification.

The PRESIDING OFFICER. The amendment is modified.

Mr. COATS. Do I need to ask unanimous consent that the amendment be modified?

The PRESIDING OFFICER. The amendment has been modified.

The amendment (No. 1070), as modified, is as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. . (a) Notwithstanding any other provision of law, the Office of Educational Research and Improvement shall submit to the Committee on Appropriations of the Senate a spending plan for activities funded under this title under the heading ''EDUCATION RESEARCH, STATISTICS, AND IMPROVEMENT'', prior to the obligation of the funds.

(b)(1) Notwithstanding any other provision of law, the National Assessment Governing Board established under section 412 of the National Education Statistics Act of 1994 (20 U.S.C. 9011) (hereafter in this section referred to as the ''Board'') shall hereafter have exclusive authority over all policies, direction, and guidelines for establishing and implementing voluntary national tests for 4th grade English reading and 8th grade mathematics: *Provided*, That the tests shall be made available to a State, local educational agency, or private or parochial school, upon the request of the State, agency, or school, and the use of the tests shall not be a condition for receiving any Federal funds: *Provided further*, That within 90 days after the date of enactment of this Act, the Board shall review the national test development contract in effect on the date of enactment of this Act, and modify the contract as the Board determines necessary: *Provided further*, That if the contract cannot be modified to the extent determined necessary by the Board, the contract shall be terminated and the Board shall negotiate a new contract, under the Board's exclusive control, for the tests.

(2) In exercising the Board's responsibilities under paragraph (1) regarding the national tests, and notwithstanding any action undertaken by the Department of Education or a person contracting with or providing services for the Department regarding the planning, or the development of specifications, for the tests, the Board shall—

(A) ensure that the content and standards for the tests are the same as the content and standards for the National Assessment;

(B) exercise exclusive authority over any expert panel or advisory committee that will be or is established with respect to the tests;

(C) ensure that the tests are linked to the National Assessment to the maximum degree possible;

(D) develop test objectives, test specifications, and test methodology;

(E) develop policies for test administration, including guidelines for inclusion of, and accommodations for, students with disabilities and students with limited English proficiency;

(F) develop policies for reporting test results, including the use of standards or performance levels, and for test use;

(G) have final authority over the appropriateness of all test items;

(H) ensure that all items selected for use on the tests are free from racial, cultural, or gender bias; and

(I) take such actions and make such policies as the Board determines necessary.

(c) No State or local educational agency may require any private or parochial school student, or home-schooled individual, to take any test developed under this Act without the written consent of the student or individual.

(d) Section 412 of the National Education Statistics Act of 1994 (20 U.S.C. 9011) is amended—

(1) in subsection (b)(1)—

(A) by amending subparagraph (A) to read as follows:

''(A) three Governors, or former Governors, of whom not more than 1 shall be a member of the same political party as the President;'';

(B) by amending subparagraph (B) to read as follows:

''(B) two State legislators, of whom not more than 1 shall be a member of the same political party as the President;'';

(C) in subparagraph (H), by striking ''one representative'' and inserting ''three representatives'';

(D) by amending subparagraph (I) to read as follows:

''(I) two mayors, of whom not more than 1 shall be a member of the same political party as the President;'';

(E) by striking subparagraph (J); and

(F) by redesignating subparagraphs (K), (L), and (M) as subparagraphs (J), (K), and (L), respectively;

(2) in subsection (c)—

(A) in paragraph (1), by striking ''and may not exceed a period of 3'' and inserting ''and shall be for periods of 4''; and

(B) in paragraph (2), by inserting ''consecutive'' after ''two'';

(3) by amending subsection (d) to read as follows:

''(d) VACANCIES.—As vacancies on the Board occur, new members of the Board shall be appointed by the Secretary from among individuals who are nominated by the Board after consultation with representatives of the individuals described in subsection (b)(1). For each vacancy, the Board shall nominate at least 3 individuals who are qualified by experience or training to fill the particular Board vacancy.''; and

(4) in subsection (e) by adding at the end the following:

''(7) INDEPENDENCE.—In the exercise of its functions, powers, and duties, the Board shall be independent of the Secretary and the other offices and officers of the Department. The Secretary shall by written delegation of authority, authorize the Board to award grants and contracts, and otherwise operate, to the maximum extent practicable, independent of the Department.''.

(e) Not later than 30 days after the date of enactment of this Act, the Secretary of Education, in consultation with the Speaker and Minority Leader of the House of Representatives, and the Majority Leader and Minority Leader of the Senate, shall appoint individuals to fill vacancies on the National Assessment Governing Board caused by the expiration of the terms of members of the Board, or the creation of new membership positions on the Board pursuant to amendments made by this Act.

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

Mr. BINGAMAN. Mr. President, I ask unanimous consent, at this point, now that the modification is pending at the desk, that myself, Senator DORGAN and Senator HARKIN be added as cosponsors.

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

AMENDMENT NO. 1122, AS FURTHER MODIFIED

The PRESIDING OFFICER. Before the Senate now is the amendment by the Senator from Washington, amendment No. 1122. The time limit is 2 minutes to be equally divided.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Have the yeas and nays been ordered on this amendment?

The PRESIDING OFFICER. They have not been.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

Mr. GORTON. Mr. President, I ask unanimous consent that Senator HELMS and Senator COATS be added as cosponsors to the amendment.

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

Mr. GORTON. Mr. President, the issue involved in this amendment is extremely simple. If you believe that the regulation of our public schools is best conducted through hundreds of pages of detailed regulations, imposed by the Department of Education in Washington, DC, on all school districts alike, you will vote against this amendment.

If you believe that teachers, parents, principals, and elected school board members in the thousands of school districts across the country can best determine how money coming from the Federal Government ought to be spent to advance their children's education, you will vote for the amendment.

No State will lose money under the terms of this amendment. Every State will gain money under the terms of this amendment, because the administrative costs, amounting to more than a billion dollars, will no longer be withheld by the Department of Education in Washington, DC, but will be transferred to the local school districts.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. JEFFORDS. Mr. President, I rise in strong opposition to this amendment. This amendment goes under the presumption that the Federal Government controls these programs. The fact that the author of the amendment has already taken three-quarters of the money out of his amendment and continues to give it to the States recognizes that.

The additional funds that would go for these programs will no longer go to these programs, but will go directly to local governments—Goals 2000; school-to-work; technology; reading, school improvement programs like ''Reading is Fundamental''; arts education; magnet schools; women's equity, et cetera, et cetera, et cetera.

Drug-free schools will just go to local governments. Indian education, bilingual education, vocational rehabilitation—50 percent going to rehab will instead go to local governments to do with as they want. Vocational education, they will do the same. Yes, it goes to education, but there is no maintenance of effort here, therefore, the local governments may well decide to replace their present educational money.

Mr. KYL. Mr. President, I rise in support of the Gorton amendment which would give the States more flexibility and resources to create quality education reform plans that address the specific needs of their particular students.

As reported recently by the Heritage Foundation, the Federal Government annually spends $100 billion in direct and indirect education costs, of which only $13.1 billion makes it to local school districts. If the majority of these funds went to the States and local school districts, I believe the concerns of parents about the quality of their children's education would be more effectively addressed than by the faceless bureaucracy in the Department of Education.

Polls taken in Arizona and across America consistently demonstrate that Americans consider the quality of education to be their most serious concern. Further, a survey reported in the Washington Post in September 1996 shows that Americans consider the decay of the public schools to be the country's most pressing problem. A surprising 62 percent of those surveyed felt that ''the American educational system will get worse instead of better.'' In my view, nothing is more important to the future of our country than whether our children are academically well-prepared.

We fail the fundamental tests of parenthood and good citizenship if we let our children down by failing to impart to them the skills and values they need to govern themselves and this country, and to compete in the global marketplace of the 21st century. Yet, poll after poll shows that Arizonans and Americans alike are concerned about the dumbing down of the politically correct education their children are receiving, the safety of the schools they attend, the general lack of discipline meted out in those schools, and parents' inability to choose to send their children to the school that best fits their kid's individual needs.

The State of Arizona has taken some important steps to address these concerns and to come up with solutions. For instance, Arizona, using a creative legislative approach, recently enacted a law creating an income-tax credit available for donations to private schools. The private schools will pool the tax credit money in a scholarship fund to be used to finance full or partial scholarships for any students on a first-come, first-served basis.

The Gorton Amendment, by giving states even more control over their education resources, would allow States more latitude to implement creative education reform plans specifically tailored to their particular needs.

What the Gorton Amendment would do, with some exceptions, would bundle all funds from the Federal Government which go to support K–12 education and send those funds directly to school districts.

Why do we need the Gorton Amendment? There are too many Federal education programs. So many in fact, no one seems to be able to agree on exactly how many there are. One count discovered 760 education programs totaling several billion dollars. With such a large number of programs funded by the Federal Government, it's no wonder there is such a concern about undue Federal influence over the operation of local schools, or whether they are being administered in an efficient way.

The people best equipped to make decisions regarding the education of our children are the parents, teachers, principles, school board members and administrators of our local schools. It's not that Members of Congress don't have an interest in the education of children. It's just that we don't have the best information upon which to base decisions.

Congress is simply not close enough to the problems school districts face to be able to dictate through Federal mandates how they should address their concerns. This is not to say the Congress does not have a responsibility assisting in the education of America's children. However, we also must see to it that those who are closest to our students have the resources they need.

Also, we must ensure that they are not hamstrung by the rules and regulations set by a group of individuals who have never set foot in their school.

In sum, Mr. President, the Gorton amendment would empower States, school districts, and parents to take a more active role in the education of their children.

Mr. KERREY. Mr. President, I am deeply concerned about the passage of the Gorton amendment today. This amendment, which gives approximately $12 billion directly to local school districts in the form of a block grant, threatens to undermine some of the most valuable educational programs in existence.

I am a strong supporter of creative school reform, and I believe in getting rid of programs that do not work. But this amendment is an attack on programs that do work. I have worked with these programs firsthand, and I know they work. Through my extensive involvement in Nebraska with early-childhood programs such as Head Start and school-to-work programs such as Careers 2000, I have seen effective programs in action.

Many of us in Congress have worked hard over the years to help build and sustain programs such as vocational education, education technology, Goals 2000, adult literacy, and safe and drug-free schools. As a result, millions of students have benefited from the opportunity to improve their achievement levels and enhance their skills portfolios. With the concerted effort of teachers, school administrators, parents, State governments, and Congress, we have been able to ensure that these opportunities remain available to all students, regardless of their particular school district. Under the Gorton amendment, only the lucky would benefit. For example, under this provision, money that once would have been designated for technological training in an inner-city high school could be used instead to build a new basketball court if local administrators saw fit. As we move toward the 21st century, the demand for technological skills in the marketplace is increasing rapidly. Therefore, it is crucial that all students have the skills necessary to compete for jobs once they leave school.

In bypassing the State entirely and giving funds directly to local school districts, the Gorton amendment is analagous to amputating the whole head in order to cure a headache. In doing so, it harms the very people it claims to help, America's children. Federal taxpayers deserve to know that a sufficient portion of their tax dollars is being used to support effective educational programs. State governments are equipped to make sure this happens.

Mr. President, I voted for passage of this bill today because, for the most part, it represents a good bipartisan effort to ensure the well-being of American citizens. But because I believe strongly that we must continue the work of education reform in an effective and measurable way, I will strongly oppose the bill if it comes back from conference with this provision intact. I will not stand by and watch American children suffer the consequences of poor legislation.

I move to table the amendment.

The PRESIDING OFFICER. Are the yeas and nays requested?

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the motion to lay on the table the amendment No. 1122, as further modified. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 49, nays 51, as follows:

[Rollcall Vote No. 232 Leg.]

YEAS—49

Akaka	Feinstein	Lieberman
Baucus	Ford	Mikulski
Biden	Glenn	Moseley-Braun
Bingaman	Graham	Moynihan
Boxer	Harkin	Murray
Breaux	Hollings	Reed
Bryan	Inouye	Reid
Bumpers	Jeffords	Robb
Byrd	Johnson	Rockefeller
Chafee	Kennedy	Sarbanes
Cleland	Kerrey	Snowe
Conrad	Kerry	Specter
Daschle	Kohl	Torricelli
Dodd	Landrieu	Wellstone
Dorgan	Lautenberg	Wyden
Durbin	Leahy	
Feingold	Levin	

NAYS—51

Abraham	Faircloth	Mack
Allard	Frist	McCain
Ashcroft	Gorton	McConnell
Bennett	Gramm	Murkowski
Bond	Grams	Nickles
Brownback	Grassley	Roberts
Burns	Gregg	Roth
Campbell	Hagel	Santorum
Coats	Hatch	Sessions
Cochran	Helms	Shelby
Collins	Hutchinson	Smith (NH)
Coverdell	Hutchison	Smith (OR)
Craig	Inhofe	Stevens
D'Amato	Kempthorne	Thomas
DeWine	Kyl	Thompson
Domenici	Lott	Thurmond
Enzi	Lugar	Warner

The motion to lay on the table the amendment (No. 1122), as further modified, was rejected.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Washington.

Mr. GORTON. Mr. President, I ask unanimous consent to vitiate the yeas and nays.

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

The question is on agreeing to the amendment.

The amendment (No. 1122), as further modified, was agreed to.

AMENDMENT NO. 1081, AS AMENDED

The PRESIDING OFFICER. The business before the Senate is now amendment No. 1081 by the Senator from Oklahoma. There are 2 minutes in regard to the time limit to this amendment, equally divided. The Senate will be in order.

The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I ask unanimous consent that the remaining votes in this series of three votes be limited to 10 minutes each.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. NICKLES. Mr. President, the amendment that I have before the Senate, cosponsored by myself, Senator JEFFORDS, and Senator CRAIG basically would say that the taxpayers would not have to pay for a subsequent Teamsters election. The last one cost $22 million, and only 500,000 people voted.

My amendment does not prohibit supervision. There can still be supervision. My amendment says that if the President certifies to Congress that the Teamsters don't have the money for the election, taxpayers could pay for it, but the Teamsters would have to pay it back, and pay it back with interest.

I might mention, in 1991, there was an election that the taxpayers didn't pay for, supervised by the Government, and it was fair, it worked. In 1996, the election was supervised and paid for by the taxpayers, and there was corruption. It was a mistake and we should not repeat that mistake. This would protect taxpayers and, in my opinion, the Teamsters as well.

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

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I yield a minute to the Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, this is an incredibly mischievous amendment. The Teamsters are operating under a court order. This would violate the consent decree. The reason the Government pays for the election is so they can have an election officer supervise the election in order to ensure that we drive corruption out of the Teamsters Union.

This consent decree was entered into by Attorney General Thornburgh in the Bush administration and heralded at the time as a great and significant accomplishment.

The Nickles amendment violates the consent decree and it carries with it the very severe risk of resulting in an unsupervised election. Now, it is asserted that other unions pay for their own elections. That is quite true, but they don't have an election officer to supervise the election. The agreement in the consent decree provided for this payment.

I urge a vote against the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma.

The yeas and nays have been ordered. The Chair reminds Senators that this is a 10-minute vote.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 58, nays 42, as follows:

[Rollcall Vote No. 233 Leg.]

YEAS—58

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

NAYS—42

Akaka	Feingold	Levin
Baucus	Ford	Lieberman
Biden	Glenn	Mikulski
Bingaman	Graham	Moseley-Braun
Boxer	Harkin	Moynihan
Breaux	Inouye	Murray
Bryan	Johnson	Reed
Bumpers	Kennedy	Reid
Cleland	Kerrey	Robb
Conrad	Kerry	Rockefeller
Daschle	Kohl	Sarbanes
Dodd	Landrieu	Torricelli
Dorgan	Lautenberg	Wellstone
Durbin	Leahy	Wyden

The amendment (No. 1081), as amended, was agreed to.

Mr. HARKIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1070, AS MODIFIED

The PRESIDING OFFICER. The business before the Senate is now amendment No. 1070, the amendment of the Senator from New Hampshire. There is a 2-minute time limit on this amendment to be equally divided. The Senator from New Hampshire is recognized.

The Presiding Officer observes that there appears to a natural garrulousness in the well of the Senate. The Presiding Officer would urge a reversal of the garrulousness into the Cloakroom where Senators can certainly enjoy their conversations in private and other Senators will be able to hear the Senator from New Hampshire.

The Senator from New Hampshire.

Mr. GREGG. Mr. President, this amendment, which we are now considering, is one which has been discussed already. It is something that has been worked out by the various parties involved. And certainly Senator COATS from Indiana has been the lead in trying to design this settlement of the matter.

It essentially resolves the matter by making sure that the testing will be done by a totally independent organization, and it will in no way be influenced monetarily—by the monetary involvement of the Federal Government—by the Department of Education, or those forces in the Department of Education who are pushing for a national curriculum. It is, therefore, a totally voluntary effort, and something which I believe deserves our support as an attempt to try to move forward on this issue.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. BINGAMAN. Mr. President, let me commend the Senator from New Hampshire and the Senator from Indiana for working in bringing this compromise together. I support it. I think it is important to give effective information. It is purely voluntary. It is a step forward. I urge very much that the Senate adopt this with a large margin so that we can stick to this position in conference.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The question is on the amendment.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

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

The assistant legislative clerk called the roll.

The result was announced—yeas 87, nays 13, as follows:

[Rollcall Vote No. 234 Leg.]

YEAS—87

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

NAYS—13

Allard	Hagel	Sessions
Ashcroft	Helms	Shelby
Brownback	Hutchinson	Thompson
Gramm	Inhofe	
Grams	Nickles	

The amendment (No. 1070), as modified, was agreed to.

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

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

The motion to lay on the table was agreed to.

CHANGE OF VOTE

Mr. HELMS. Mr. President, as always, we are sometimes called on to be two places at one time with two or three committee meetings going on. I was recorded—and it was my fault. It was not the clerk's fault. It was my fault because I thought it was a tabling motion when it was not. In any case, on rollcall vote No. 234, I voted ''yea,'' and it was my intent to vote ''nay.''

Therefore, I ask unanimous consent that I be permitted to change my vote, which will in no way change the outcome of the vote.

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

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

AMENDMENT NO. 1115, WITHDRAWN

Mr. HARKIN. Mr. President, I ask unanimous consent that amendment No. 1115 to S. 1061 be withdrawn.

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

The amendment (No. 1115) was withdrawn.

AMENDMENT NO. 1122

Mrs. MURRAY. Mr. President, today the Senate has passed the Gorton amendment to the Fiscal Year 1998 Labor, Health and Human Services, and Education Appropriations Act. This amendment seeks to block-grant certain Federal education funds and send them directly to school districts across the country. I appreciate my colleague Senator GORTON's intent to pass as much responsibility as possible for making educational and funding decisions to those levels closest to the classroom. This is also a goal of mine.

However, with all due respect to my colleague, this is one issue where we fundamentally disagree. His amendment, like many ideas, sounds good in theory because it oversimplifies the practical reality in our schools and communities.

As a former school board member, I agree with my Republican colleagues that our local elected school officials and educators are fully capable of deciding what their local needs and priorities are, and directing funds to those areas.

But those local school board members and superintendents and principals and educators will tell you that the Federal Government does indeed have a role in education in this country—in setting priorities and assuring equity.

Despite the occasional difficulties of writing a grant or filling out a form, Federal programs such as School-to-Work, or Safe and Drug-Free Schools, or STAR schools or other Federal technology programs, have made very real differences in the lives of students in schools across this Nation.

They will tell you that equity protection efforts, such as providing funds for magnet schools, funds for Indian education, or funds for bilingual or migrant education, should continue to be uniquely within the purview of the Federal Government. This is because despite the best intentions, we all know that some school districts in this country have not always been able to do best by all the students all of the time. Equity funds must continue to go to the students and school districts which need them, and must not be watered down and spread across all school districts, regardless of need, as it appears the Gorton amendment would require.

My problem with the Gorton amendment is that it may cost significantly more to educate one student than another, but this amendment will send them both the same Federal allocation—and ignore the intent of the Federal education program set up to recognize the specific needs associated with the higher cost.

Every child deserves an effective, relevant education. Not all children have the same opportunity to get it. This amendment will assure that we increase the disparities between the haves and have-nots in our Nation's schools.

Federal education funds leverage State and local money, as they do in my State, in the area of technology funding. Federal programs include caps on administrative expenditures, and maintenance of effort requirements—so we do not allow States to supplant or misuse funds. Federal education efforts safeguard equity concerns important to the Nation, and set important national goals priorities.

The Gorton amendment is bad policy. It uses a meat-ax approach to educational reform when what is needed is the precision of a scalpel and a careful ear listening to what local people are really saying. No one likes bureaucracy. Everyone believes our schools can be improved. But educators and taxpayers across the country will grumble more loudly about the potential ill-effects of the Gorton amendment than they ever have over redtape.

Local control is the goal; the Gorton amendment is fundamentally the wrong way to go about reaching it.

FUNDING FOR THE BUREAU OF LABOR STATISTICS

Mr. SARBANES. I would like to commend the committee and subcommittee for their hard work on the Labor-HHS Appropriations bill. I am particularly pleased that the committee has seen fit to honor the administration's request for funding of the efforts of the Bureau of Labor Statistics [BLS] with respect to its review of the Consumer Price Index.

However, I am concerned about the level of funding provided in the Labor-HHS bill for the remainder of the BLS budget, which is $6.8 million below the administration's request.

BLS has suffered substantial funding reductions in past years, and consequently has had to eliminate or reduce the scope of several important programs—programs which produced valuable information on the Nation's labor markets and economy as a whole. It would not serve the national interest for BLS to have to undertake similar reductions as a result of the funding level in this appropriations bill.

For example, high school guidance counselors around the country who help young graduates find work in growing sectors of the economy rely on Occupational Outlook Handbook, Occupational Outlook Quarterly, and other special reports produced by the BLS Employment Projections Program. The proposed cuts in this bill, however, may make the continued publication of these important materials less likely in the future.

Similarly, to excel in the increasingly competitive global economy American businesses and trade officials need reliable international comparison statistics on employment, labor costs,

and productivity. The proposed level of funding in this legislation jeopardizes our ability to receive such information.

Finally, another consequence of the committee's proposed BLS funding level could be a delay in the implementation of the new industrial classification system—the so-called NAICS—that BLS has been working on. Updating the current system, which dates back to the 1930's, to reflect an economy approaching the 21st century is critical to the ability of our business leaders and policymakers to understand the challenges our economy will be facing in the upcoming years.

I understand that the House funds all BLS activities at a level consistent with the administration's request. Would the Senator from Pennsylvania, as ranking member of the Labor-HHS Appropriations Subcommittee, be willing to accept the House funding levels in conference?

Mr. SPECTER. The concerns of the Senator from Maryland are well founded. I will look closely at fully funding BLS programs as we move to conference with the House.

Mr. SARBANES. I thank the Senator from Pennsylvania, and appreciate his attention to this important matter.

AIDS PROGRAMS

Mr. HATCH. Would the distinguished chairman yield for a question?

Mr. SPECTER. I would be pleased to yield to my colleague.

Mr. HATCH. Many of us have been reading the excellent series in the Washington Post this week about the changing face of the AIDS virus. The article on Monday, if I am correct, highlighted the dramatic gains that have been made with new AIDS therapies, particularly the so-called triple drug therapy or cocktails which seem to have so much promise, at least in the short term. We are all keeping our fingers crossed.

Could you tell me how the bill addresses this issue?

Mr. SPECTER. Funding for the Ryan White AIDS programs was a priority for the committee this year, and I worked very hard to make sure that we provided an adequate level for the Health Resources and Services Administration service programs, as well as, I might add, for research at the National Institutes of Health.

I am pleased to assure you that S. 1061 contains $1.077 billion for the Ryan White AIDS programs, which is $41 million above the administration's request, and over $80 million higher than the current year's level. That includes $469.9 million for HIV health care and support services, of which $217 million is dedicated to AIDS medications under the State AIDS drug assistance program [ADAP]. That $217 million figure for ADAP compares to $167 million in fiscal year 1997, so it is a substantial increase in an atmosphere of budget constraints.

Mr. HATCH. As the original author of the Ryan White CARE Act with Senator KENNEDY in 1990, I am extremely pleased to hear of the committee's action to provide such a high level of support for the CARE Act. There is no doubt we have come a long way in the past 7 years. A good deal of that progress has been made because you, Senator SPECTER, have had the foresight and the courage to provide the funding HHS needs to operate the program. And I hope all of our colleagues recognize that fact.

But, despite our best efforts at both research and services, AIDS is still a serious problem in the United States. The most promising development we have had in years are the protease inhibitors and the combination therapies which are giving thousands of people literally a new lease on life. In fact, as you have noted, we are now seeing lower mortality rates for individuals for the first time in the history of the HIV/AIDS epidemic.

Let me ask you one final question. Are you satisfied that the committee's recommendation for the ADAP program will be sufficient?

Mr. SPECTER. I am not sure we will ever have enough money in the Labor-HHS bill. It is a constant struggle. I have to say that one thing which alarmed the committee is the high cost of these new AIDS medications. Pharmaceutical research, as you well know, is extremely time intensive and costly, and this is especially true for AIDS drugs.

The committee was very concerned about the lack of timely national data available to estimate the demands for AIDS medications funded by the ADAP program, and also, I might add, about the wide variation in State Medicaid policies on individual eligibility, benefits, and drug availability. We have asked the Secretary to develop benchmarks to measure progress in this area and to increase data collection and information sharing, and so we hope to have a better guideline in the future.

Mr. HATCH. I thank the Senator for this information. It is clear that we are all going to have to work harder—both the government and the private sector—in making AIDS medications available to those who need them. It is one of the modern paradoxes that the new AIDS drugs can defer an HIV infected individual's progression to disability. Yet, it may only be that the individual can get financial assistance when disabled, a situation we would clearly like to prevent.

I am aware of a Pharmaceutical Research and Manufacturers of America study which indicated that, as of December 1, there were 122 medicines in testing for AIDS. The cost, which the Senator alluded to, is astounding. One company spent more than $1 billion over a 10-year period to develop a protease inhibitor. American technological gains are nothing short than miraculous, but we all have to recognize they are expensive as well.

I am heartened by the Senator's remarks about funding for the State ADAP programs. I am fully supportive of your efforts and I thank you for your substantial interest in this area.

RURAL HEALTH TRANSITION GRANTS

Mr. BURNS. I would like to clarify the intent of the Appropriations Subcommittee on Labor, Health and Human Services and Education, and the full Appropriations Committee, with respect to the Rural Health Transition Grant Program. This program provides small, 3-year grants to assist financially troubled small rural hospitals as they attempt to adjust to changes brought on by new medical technology, changing practice patterns, and replacement of cost-based reimbursement with prospective, or fixed, payments. Last year Congress discontinued funding for rural health transition grants, but several facilities around the country were already in their grant cycle, having received their first or second year grants. These small hospitals were promised 3-year grants, and had relied on those grants, when the funds were cut off.

Is it the intention of the Appropriations Committee to urge the Secretary of Health and Human Services to provide, from the funds appropriated for program management, continuation grants to those rural hospitals which have received first or second year grants?

Mr. SPECTER. I respond to the Senator from Montana that it is the intention of the committee to urge the Secretary to provide, from the program management account, continuation grants to those rural hospitals which have received first or second year grants. The committee believes that an undue hardship could be brought upon these hospitals if their 3-year grants are not completed as promised. I thank the Senator from Montana.

Mr. BURNS. I thank the subcommittee chairman for his clarification.

AMENDMENT NO. 1098

Mr. KERREY. Mr. President, I share the interest of my colleague from Georgia in enhancing food safety not only for children but for all consumers. I note that several provisions in my colleague's amendment appear to be related to the types of research efforts that are undertaken by the U.S. Department of Agriculture.

Based on those ongoing efforts, I suggest that the Secretary of Health and Human Services should consult and coordinate with the Secretary of Agriculture in carrying out the provisions of this amendment. I ask my colleague from Georgia if this is his expectation as well.

Mr. COVERDELL. Yes; I agree that the Department of Agriculture has spearheaded efforts in this area, and that the Department of Health and Human Services should consult and coordinate with the Department of Agriculture so that these funds are utilized in the most effective and efficient manner.

Mr. KERREY. I thank my colleague from Georgia for both his interest in ensuring and improving the safety of

our food and for agreeing that the two Departments should work together in implementing the provisions of his amendment.

STUDY ON IODINE-131 RELATED THYROID CANCER

Mr. BENNETT. Mr. President, I would like to bring to the Senate's attention the recent National Cancer Institute recommendation that followup studies be conducted regarding American's exposure to radioactive iodine-131. During the 1950's and 1960's the Nevada test site conducted a number of atomic tests. The radioactive fallout from such tests was significant. I believe that a number of Utahns were exposed to this radioactive fallout.

The University of Utah has conducted several studies to assess the impact of this fallout. In doing so the University of Utah collaborated with the Public Health Service, the National Cancer Institute, and the Department of Energy. Although these studies concluded that there is an increase in the incidence of thyroid cancers among the examined group and that further research was needed. Many of those exposed are just now coming to the age where thyroid cancer is manifested. As a result, I believe it is important that Congress fund the next phase of this study.

I would like to ask Chairman SPECTER if he would work with me to find the necessary resources to fund the next phase of this study. I am well aware of the limited resources available to this subcommittee. I also understand that there are many competing needs and important programs and projects. However, I am hopeful that we can work together to find the necessary resources to fund this study.

Mr. SPECTER. Mr. President, I say to my friend from Utah that I am aware of his concerns with regard to atomic tests performed at the Nevada test site and the fallout of radioactive iodine-133. I also understand that the University of Utah has done some outstanding research in this area. I would like to ask Senator BENNETT what resources would be required to complete this phase of the study?

Mr. BENNETT. I am told that this would be a 5-year study that would require about $1.9 million per year.

Mr. SPECTER. Senator BENNETT is correct that resources are limited. However, I would be pleased to work with Senator BENNETT to try to find the resources necessary to fund this important study.

Mr. BENNETT. Mr. President, I thank my friend Senator SPECTER for his willingness to work with me on this important and I look forward to working with him on this matter.

FUNDING FOR RURAL DRUG ABUSE PREVENTION PROGRAMS FOR DISTRESSED YOUTH

Mr. DASCHLE. Mr. President, during a recent visit to rural South Dakota, I had the profoundly moving experience of meeting with a heroic individual who is working to keep deeply distressed kids off alcohol and drugs. Durein Chase works to build opportunities for distressed children by providing them with drug-abuse prevention counseling in a safe, drug-free recreation center. My hope for these children and excitement about the Crow Creek Four Winds Youth Center Program were cut short when I learned that Federal funding for this program was abruptly terminated because Congress ended its authorization in fiscal year 1996. The Homeless and Runaway Youth Drug Abuse Prevention Program, known as DAPP, had previously supported as many as 184 local programs around the country at an annual cost of $15 million. When DAPP lost its appropriation, the program was incorporated into a new comprehensive program for homeless youth. Unfortunately, the new initiative does not help those programs, like the one on Crow Creek Reservation, that do not run residential facilities. Simply put, the children of Crow Creek have slipped through the cracks. Dureine's heroic effort to help particularly vulnerable kids avoid drugs will disappear without our support. Fortunately, the Appropriations Committee has included in its fiscal year 1998 bill $10 million for SAMHSA, the Substance Abuse and Mental Health Services Administration, to support youth drug prevention programs. It is my understanding that the Crow Creek Four Winds Youth Center and facilities like it are eligible for a portion of the $10 million provided to the Department of Health and Human Services and it is my hope that the Department will seriously consider funding the Crow Creek Youth Center in fiscal year 1998. With adequate funding, the Crow Creek Youth Center will be able to provide help for isolated and distressed youth who come from areas distinguished by historically high rates of teen suicide.

Mr. SPECTER. I join my colleague from South Dakota in recognizing the importance of drug prevention efforts in rural America. It is my understanding that the Crow Creek Youth Center would be eligible for these funds and I encourage the Secretary of Health and Human Services to give serious consideration to funding such efforts out of the money appropriated under this bill.

Mr. HARKIN. It is our intention to support programs which provide such essential drug abuse prevention services to youth. It strikes me that the Crow Creek Youth Center meets that criteria, and I join with my colleagues in encouraging the Secretary to identify funding for the South Dakota program and similar programs in rural and isolated areas plagued by high rates of alcohol and drug abuse.

FLUORIDATING COMMUNITY WATER SUPPLIES

Mr. DASCHLE. Mr. President, I note with pleasure that both the Senate and House reports accompanying the Labor/HHS appropriations bills reflect strong support for community water fluoridation in preventing tooth decay among children. These reports clearly state that we can both save money and improve children's health through fluoridation. Tooth decay remains the single most common disease of childhood and is highest in low-income children. Millions of Medicaid dollars currently used to repair these children's teeth could be saved through fluoridation. After 50 years, water fluoridation remains the hallmark public health preventive intervention. In my own State of South Dakota, water supplies for communities as small as 500 persons are fluoridated. It is my hope to extend similar benefit to children throughout the country.

Both the House and Senate reports direct the Department of Health and Human Services to support implementation plans for additional community water fluoridation. The House provides $1,000,000 for this effort while the Senate directs the Department to fund this effort at a level no less than last year. Unfortunately, last year the Department allocated only $200,000 for this purpose, which did not meet the need.

It is my hope that the conferees will be able to provide sufficient resources in the conference report to address this serious problem. The House level of $1,000,000 for community water fluoridation strikes me as a reasonable amount to accomplish this important purpose. Anything the Senate conferees could do to work with the House conferees to achieve this level in the final conference report would be enormously appreciated by beneficiaries of this program throughout the Nation.

Mr. SPECTER. The benefits of fluoridated water to our Nation's children are well known and appreciated. I will work with my colleagues on the House and Senate conference to provide the resources to implement this program more broadly.

Mr. HARKIN. The National Institutes of Health reports that more than half of 6 to 8 year olds already suffer tooth decay. There are few things that the Federal Government can do directly to decrease this disease in children. Fluoridation is one of them. I, too, will work with my colleagues to provide the necessary funding in the conference report.

FUNDING FOR BREAST CANCER RESEARCH

Mr. DASCHLE. Mr. President, I note the committee is recommending a significant increase in funding for the National Institutes of Health as a whole, and for the National Cancer Institute in particular. I applaud the committee for its dedication to tapping the full potential of medical research. Such research represents hope for millions of Americans with cancer and other devastating illnesses, and in that sense it is far more valuable than any dollar figure we may attach to it.

I understand that in its report, the committee stated that breast cancer research is among its top priorities, and asserted that the National Cancer Institute should strengthen its budgetary commitment to breast cancer. In light of these statements, I believe it is the committee's expectation that the substantial increase in NCI funding

should be reflected in additional funding for breast cancer research. It is reasonable that NCI would increase its funding commitment to breast cancer research in order to respond to the committee's concern that more research is needed to better understand the underlying mechanisms of breast cancer and to improve the ability to detect, diagnose and treat this pervasive, life-threatening disease.

Mr. SPECTER. I agree with your interpretation of the committee's report. Our intent was to convey the need to redouble our efforts to successfully prevent, detect and treat breast cancer. Sufficient funding to push the boundaries of breast cancer research is essential if we are truly committed to these goals. Increased funding for the National Cancer Institute should indeed be reflected in a larger financial commitment to breast cancer research.

Mr. HARKIN. I, too, fully concur with Senator DASCHLE's assessment. NCI must not forsake this important opportunity to expand its breast cancer research agenda. I anticipate that NIH and NCI will give this critical avenue of research every consideration as they make their fiscal year 1998 funding decisions.

FULFILLING THE PROMISE OF THE BREAST AND CERVICAL CANCER MORTALITY PREVENTION ACT (P.L. 101–345)

Mr. DASCHLE. Mr. President, I am grateful that this bill provides an increase in funding for the Centers of Disease Control and Prevention's National Breast and Cervical Cancer Early Detection Program. The program was implemented in accordance with the Breast and Cervical Cancer Mortality Prevention Act of 1990 to reduce morbidity and mortality from two cancers that will claim the lives of an estimated 500,000 women during the 1990's. It is structured as a State and Federal partnership to provide screening and diagnostic help and assure followup care for low-income uninsured women.

Under the 1990 act, Federal funding is restricted to screening and diagnostic services. To ensure that women diagnosed with cancer receive treatment, States are expected to arrange access to treatment through whatever means they have at their disposal. The CDC's National Breast and Cervical Cancer Early Detection Program is now active in all 50 States, and as of January 1997, the program has screened more than 1.5 million American women. Unfortunately, too many women are not being provided the screening, disgnostic help, and treatment they need to save their lives.

At the current level of funding, the program can provide screening to only 15 percent of the eligible low-income population, meaning that roughly 10 million low-income uninsured American women are not provided access to critical screening services. Moreover, as in many other States, the program in my home State of South Dakota faces another critical resource constraint: Insufficient resources to provide diagnostic services for women who have been screened by the program and require additional diagnostic treatment. It is tragic to think that some women are told they may have breast or cervical cancer, and then informed that their diagnosis cannot be confirmed. Additional funding for this program is critically needed to complete the task of diagnosing women as early as possible so that they can receive potentially life-saving treatment, and to fulfill the promise of the 1990 bill for all eligible women, not just a small fraction of them.

In addition to our inability to provide screening and diagnostic services to all low-income women, we have not yet been able to establish a program to ensure the necessary treatment for those who are diagnosed with cervical or breast cancer. When you consider that the fundamental goal of the 1990 act is to prevent mortality, it becomes clear that we need to take greater steps to secure treatment for affected women. Since passage of the 1990 act, CDC and the States have been working diligently to ensure that all women diagnosed with breast or cervical cancer receive appropriate treatment. However, the resources that are available to fulfill this task—often an uneven patchwork of free clinics, charity care from hospitals, and pro bono services donated physicians—makes the job extremely difficult.

To meet this challenge, it is essential that we determine accurately the extent to which women diagnosed with cancer under the CDC Program lack access to the care they need and how we can overcome the remaining barriers to providing all women with care they need. I understand that the CDC is conducting a comprehensive study of State-level efforts to provide appropriate treatment. Based on the results of that study, which should be available within the next few months, Congress and the administration have a responsibility to determine whether additional measures are necessary to help States ensure proper treatment for women who are diagnosed with cancer through the CDC screening program. It is my hope that when the results of the CDC study become available, the administration will evaluate them and make recommendations to Congress on ways the Federal Government can better help States ensure that women diagnosed with cervical or breast cancer obtain the treatment they need.

Additionally, it is my hope that the Department of Health and Human Services will utilize whatever unexpended or discretonary funds that are available in fiscal year 1998 to expand the number of women who are provided screening or diagnostic assistance for cervical or breast cancer.

Mr. HARKIN. Mr. President, I couldn't agree more. Providing crucial early detection and diagnostic screening services to uninsured women is a high priority for me. It is essential that women who are diagnosed with breast cancer through our efforts are not abandoned without hope of appropriate treatment. I know that our committee, with the chairman's support, will work hard to support CDC's National Breast and Cervical Cancer Early Detection Program and strongly encourage the administration to develop recommendations to Congress to ensure broader access to followup treatment.

Mr. SPECTER. Mr. President, I very much agree. I recognize the importance of providing early detection and diagnostic screening services to as many uninsured women as possible, and agree that the Department of Health and Human Services should consider providing the screening and diagnostic program with any unexpended or otherwise available funds under this bill in fiscal year 1998. Also, Congress and the administration should take a close look at the current program and be willing to consider further efforts to provide followup treatment for all women diagnosed with cancer through the screening program.

RESEARCH AIMED AT DETECTING, PREVENTING, AND TREATING OSTEOPOROSIS

Mr. DASCHLE. Mr. President, it is estimated that up to 50 percent of the women alive today will experience at least one serious osteoporosis-related fracture during the remainder of their lives. Approximately 25 percent of men alive today will also experience a serious fracture related to osteoporosis. It is clear that osteoporosis is becoming a greater and more expensive public health problem with each passing year. Medicare and other publicly funded health care programs are spending an estimated $28 billion per year to treat osteoporosis-related conditions.

Osteoporosis is both preventable and treatable. There are a number of FDA-approved therapies that have been demonstrated to be effective in preventing the disease in those at risk, as well as treatments that can arrest or retard the progress of the disease in individuals who already have it. Good nutrition, including sufficient calcium, has also been shown to help protect against the illness. If programs can be put into place soon that will help detect and combat this illness, we can make a tremendous difference in the quality of life of seniors, and effectively reduce the spiraling cost of osteoporosis-related health problems.

I understand that in its report, the committee has encouraged the National Institute of Arthritis and Musculoskeletal and Skin Diseases [NIAMS] and the Agency for Health Care Policy Research [AHCPR] to use competitive grants and other mechanisms to plan and carry out definitive studies, including epidemiological studies, that will enable us to better understand the nature and scope of osteoporosis and design more effective prevention and treatment programs. I commend the committee for its action, and would like to reinforce the urgency of moving forward with the planning

and execution of such studies and the importance of using competitive grants as appropriate to tap the skills and expertise of the Nation's academic and research communities. I would also like to emphasize the importance of including, as part of this effort, an analysis of policies and programs that should be pursued to prevent osteoporosis in the future. It is critical that we have an accurate sense of the dimensions of this widespread health problem and take every possible step to lessen its destructive impact.

I hope the committee's well-articulate views, which clearly recognize the value of a comprehensive assessment of osteoporosis, and acknowledge the important contribution NIAMS and AHCPR can make to that effort, are incorporated into the conference report.

Mr. SPECTER. I agree that osteoporosis should be the focus of aggressive detection, prevention and treatment activities. We owe it to our own and future generations to tackle the root cause of so much injury and debilitation in later life, and to reduce the growing financial burden it imposes on individuals and the public alike. I agree that NIAMS and AHCPR should pursue, within the funds provided, strategies to detect, prevent, and treat osteoporosis in both women and men, and I look forward to working with the conferees to include such language in the conference report.

Mr. HARKIN. I also recognize the value of a comprehensive research strategy aimed at detecting, preventing and treating osteoporosis, and I encourage NIAMS and AHCPR to give this research every consideration as they make their fiscal year 1998 funding decisions.

AGING RESEARCH AND ALZHEIMER'S DISEASE

Mr. GRASSLEY. I would like to take this opportunity to commend the distinguished chairman of the subcommittee, Senator SPECTER, for his leadership in crafting what is arguably one of the most difficult and perhaps the most complex appropriations bills Congress must deal with each year.

I share his concerns that while there are so many worthwhile programs covered by this legislation, we are unfortunately constrained by limited resources.

As chairman of the Senate Special Committee on Aging, I am especially concerned about one item in the bill—the recommended appropriation for the National Institute on Aging.

As baby boomers shoulder their way into the 21st century, nearly 35 million Americans will be age 65 or older, compared to just 3.1 million at the start of this century. This tremendous growth is due in large part to better living standards as well as this Nation's commitment to medical research. As a result of past research investments we now have new and more effective treatments for arthritis, high blood pressure, stroke, and other diseases.

But as you know, many critical challenges remain—not the least of which is the scourge of Alzheimer's disease.

Alzheimer's disease and related disorders present one of the greatest threats to the health and economic security of the generation that will enter retirement in the 21st century. It has already stricken 4 million Americans. And if left unchecked, 14 million will fall victim to Alzheimer's by the middle of the next century. It will defeat all of our best efforts in Congress and as a nation to control health care costs and assure the quality of health care in general.

I know that the distinguished chairman of the subcommittee shares my concern. As in my State of Iowa, his home State has a high proportion of elderly.

I note that this legislation recommends $520.7 million for the National Institute on Aging. While that represents an increase over this year's funding and the House level, the rate of increase is below the average increase to NIH as a whole.

I would like to ask the distinguished chairman that he keep in mind the importance of adequate funding of the National Institute on Aging. The challenges, and the opportunities, surrounding our aging population have never been greater.

Mr. SPECTER. I would like to thank Senator GRASSLEY, the distinguished chairman of the Aging Committee for his leadership on this important issue. The Senator can be certain that I understand the importance of maintaining adequate funding for the National Institute on Aging. I will certainly keep this in mind as the appropriations process continues.

EARLY HEAD START PROGRAM

Mr. HARKIN. Mr. President, the pending legislation increases funding for Head Start by $324 million and directs that 10 percent of the fiscal year 1998 increase be dedicated for further expansion of the Early Head Start Program which serves children from 0–3 years of age. The appropriations bill does not amend the underlying Head Start statute, therefore, there is no change to the 5 percent set-aside for the Early Head Start Program as prescribed by that law for fiscal year 1998.

I would ask the chairman if he could clarify the intent of the legislation with respect to the Early Head Start Program. It is my understanding that the 10 percent from the fiscal year 1998 increase is in addition to the 5 percent set-aside already provided by law.

Mr. SPECTER. The Senator is correct. The pending legislation does not change the 5 percent set-aside for the Early Head Start Program provided by current law for fiscal year 1998 and the 10 percent provided by the bill is additional funding to expand programs for children from 0–3 years of age.

Mr. HARKIN. I thank the chairman for clarifying this point.

MUSIC EDUCATION

Mr. KENNEDY. Mr. President, in the past the Senate has supported, through the Labor-HHS appropriations bill, music training as an educational tool. I support the continuation of support for this type of program.

I urge the Department of Education, through its fund for the improvement of education, to give favorable consideration to a proposal that will stimulate students' interest in and attention to music by airing the work of young and gifted student performers and which will also involve the public through supplemental educational tools. A young performance series, which affords 6–18-year-old musicians the opportunity to publicly demonstrate their talents would be especially suited to carry out such a demonstration.

If we are to encourage innovation and talent, we must foster that talent by recognizing the developing skills of our Nation's youth. Public broadcasts of a quality young performance program will encourage youth involvement in classical and other serious music.

Mr. SPECTER. I note the Senator's support for music programs for young people with interest and agree that we should encourage education and learning through the use of the arts. I would also encourage the Department of Education to consider this proposal.

STUDENT/PARENT MOCK ELECTIONS

Mr. KENNEDY. Mr. President, every Member of Congress understands the importance of elections. The votes cast on election day determine the leadership and direction of communities across the country, and of the Nation as a whole. We know that informed voters are the essence of our democracy.

The National Student-Parent Mock Election helps young students learn about the importance of the election process. It also offers parents and teachers across the country an opportunity to help students learn about democracy, make decisions about key issues, and understand the meaning of the citizen responsibility on which democracy thrives.

On October 30, 1996, millions of students and parents across the country cast their votes for President, Vice President, Senators, Representatives, Governors, and local officials as part of the National Student-Parent Mock Election. Every State called in its votes on who would win the elections and its recommendations on key national issues to the National Mock Election Headquarters, while over 20 million viewers watched on television.

The National Student-Parent Mock Election is an on-going project that received $125,000 in Federal funding in fiscal year 1997.

I understand that it is the intention of the chairman and ranking member of the Labor-HHS-Education Appropriations Subcommittee to fund the National Student-Parent Mock Election at $225,000 for the fiscal year 1998 so that it can continue to educate students on key issues and the principles of democracy.

Mr. SPECTER. That is true. It was our intention to include in report language that the National Student-Parent Mock Election be funded at $225,000 this fiscal year. I, too, believe that this is an important and worthy program.

Mr. HARKIN. I also agree that it was our intention to fund the program at $225,000 this fiscal year, and I comment the National Student-Parent Mock Election program of its continued success.

Mr. KENNEDY. I thank the Senator for the clarification. The lessons that students and their parents learn in the mock elections will benefit American politics for years to come. If the next generation of Americans is well prepared for the challenges of democracy, our liberties will be in good hands.

FUNDING FOR THE CENTERS FOR DISEASE CONTROL AND ITS SUICIDE PREVENTION INITIATIVES

Mr. COVERDELL. Mr. President, I would like to direct the attention of my colleagues to the work of the Centers for Disease Control [CDC] located in Atlanta, GA. As you all are aware, the CDC is dedicated to the public health—providing valuable resources for disease research and prevention from cancer and infectious disease research to diabetes control to suicide prevention.

Mr. SPECTER. Yes, I think our colleagues will all agree that the CDC performs valuable public health services. There is widespread support for the CDC and its missions, and I believe it is a worthwhile use of Federal funds.

Mr. COVERDELL. I thank the Senator from Pennsylvania for his remarks. Let me add that a number of my constituents have contacted me regarding CDC funding, particularly in regard to the National Center for Injury Prevention and Control's research on suicide prevention.

While both the House and Senate bills provide funding for the CDC above the administration's request, my constituents fear that the CDC's research potential will not be attained under the Senate's lower appropriation level. As you may know, I joined with several of my colleagues in sponsoring S. Res. 84 which recognizes suicide as a national problem. I share my constituents' interest in promoting efforts to prevent suicide, and as deliberations on S. 1061 continue, I respectfully request that the Chairman consider my constituents' request to fund the CDC at the House level.

Mr. SPECTER. I appreciate the Senator from Georgia's comments regarding fiscal year 1998 CDC funds. Let me assure him that the subcommittee will take his comments into careful consideration.

Mr. COVERDELL. Once again, I would like to thank the Senator for his and his subcommittee's support. I yield the floor.

Mr. SPECTER. I appreciate the distinguished Senator from Georgia bringing to the attention of this Senate his interest in the valuable work of the CDC. I will ensure that the conference committee considers the Senator's interest in these important public health programs.

Mr. COVERDELL. I thank the distinguished chairman for his attention to my interest in these matters.

DEPARTMENT OF LABOR JOB SEARCH INITIATIVE

Mr. DOMENICI. Mr. President, I rise to engage the distinguished chairman of the Labor, Health and Human Services and Education Appropriations Subcommittee in a dialog about an item in the House version of the fiscal year 1998 appropriations bill.

Mr. President, the House Appropriations Committee has approved $3 million within the Employment and Training Administration to support a telephone-access job search system. These funds are provided as part of the $71.8 million approved in the House bill for other federally administered programs. Through the labor market information activity, $3 million would be used to support the installation of a telephone access labor market exchange network for searching America's Job Bank by telephone. This service has the potential of providing access to job information to persons with disabilities, including individuals who are blind.

I would ask the chairman if he would review the House proposal and give it serious consideration for inclusion in the final version of the Labor-HHS-Education appropriations bill. I understand that the $3 million would most appropriately go to assist states in meeting the first-year costs of joining a labor market exchange network for providing job seekers with access to America's Job Bank by telephone. With the innovative use of computer technology, this proposal could be of significant assistance to those who are disabled and in search of employment opportunities.

Mr. SPECTER. I thank the Senator from New Mexico for bringing this matter to my attention. I am familiar with the recommendation of the House Appropriations Committee to encourage a telephone-access job search initiative. I can assure my friend from New Mexico that I will give this proposal serious consideration for inclusion in the conference report accompanying the final bill.

WHITE HOUSE INITIATIVE ON TRIBAL COLLEGES AND UNIVERSITIES

Mr. BINGAMAN. Mr. President, I wish to take this opportunity to speak in support of a new Office of Tribal Colleges and Universities that has been created by Executive order, and to clarify language in the Senate Committee Report 105–58 that accompanies the legislation currently under consideration. This Executive order began as Senate Resolution 264, a Sense-of-the-Senate Resolution urging the President to issue an Executive order to promote and expand Federal assistance for Indian institutions of higher education. I am proud to be one of the initiators of this resolution, and I was very pleased when the President responded by issuing Executive Order 13021 pertaining to tribal colleges and universities in October 1996, in which he created an Office of White House Initiative in the Department of Education. The order also directed the Department of Education to ''provide appropriate administrative services and staff support for the Board and the Initiative.''

This issue was raised in two separate sections in the Senate committee report. Support for the Initiative Office was mentioned in the section pertaining to the Department of Education's Office of Indian Education, and then again in the section pertaining to the Office of Vocational Education. I ask my colleague from Pennsylvania, Senator SPECTER, if it was the committee's intent to provide the White House Initiative Office with adequate support from the Department of Education's increased funds for general departmental management, and not from the limited funds allocated to the Office of Indian Education?

Mr. SPECTER. Mr. President, I thank my colleagues for this opportunity to clarify the committee's recommendation regarding the Department of Education's White House Initiative Office on tribal colleges and universities. It was, indeed, the committee's intent that the Office receive adequate support for its mission, and that administrative funds be allocated for this purpose from the Department of Education's general management funds.

Mr. BINGAMAN. I thank my colleague for this clarification. The 30 Tribal Colleges and Universities in this country provide the best opportunity for many Native Americans to attend college. The Carnegie Foundation for the Advancement of Teaching recently published its second report on Native American colleges, pointing out the critical role they play. I believe that the office created under the White House initiative will have an opportunity to work across Federal agencies to strengthen tribal institutions of higher education and can help to implement the recommendations made in the Carnegie Foundation report.

I know that my colleague from North Dakota, Senator DORGAN, shares my concern for the support of tribal colleges and universities, and I would ask for his thoughts on this issue.

Mr. DORGAN. Mr. President, I thank my colleague from New Mexico for his leadership in urging the creation of this White House Office on Tribal Colleges and Universities. Like Senator BINGAMAN, I supported S. Res. 264 and was among the Senators that subsequently urged the President to issue the Executive order. It was at my request that the committee included language for increased funding support for this office, and I am most grateful to the chairman for his help on this matter and for clarifying the committee's intent.

North Dakota is home to five tribal colleges, and these institutions are an

important part of the higher education community in my State. It is my belief that the White House initiative has the potential to galvanize Federal support for these institutions, and in so doing will open the door to college wider for many Native Americans.

NATIONAL MEDIATION BOARD

Mr. HARKIN. As the chairman knows, this bill includes funding for the National Mediation Board [NMB] which is responsible for mediating labor-management disputes in the railroad and airline industries under the Railway Labor Act [RLA]. To help meet this responsibility section 3 of the RLA requires the arbitration of certain disputes that arise between employee and their employers in the rail industry.

Unfortunately, there is a serious need to help the NMB fulfill its section 3 responsibilities. Delays in care processing cause uncertainty and hardship for both rail workers and the carriers. I want to thank the chairman for recognizing this problem and for including an additional $500,000 to the budget of the NMB. It is my understanding that it is the intent of the chairman and the committee that the NMB should use this extra money to deal with the section 3 cases. Is this also understanding of the chairman?

Mr. SPECTER. I want to thank the Senator from Iowa for raising this issue. In appropriating an additional $500,000 over the administration's request it is indeed by intent that the NMB will use these funds to more quickly process the section 3 cases that are currently pending. There are now a few thousand unresolved cases affecting workers and employers in Pennsylvania and throughout the Nation who deserve to have these cases decided as quickly as possible.

Mr. HARKIN. I want to again thank the chairman for his interest and help in addressing this problem.

Mr. LEAHY. I am concerned that the Community Schools Program has not been funded within the fiscal year 1998 HHS appropriations bill. The elimination of this program means the cutting of funds for grants in over 35 States, midcycle, including programs in Vermont and Pennsylvania.

Senator JEFFORDS and I have been working to find an acceptable way to ensure that the Community Schools programs which work well will continue to be funded.

I understand the fiscal constraints faced by the committee. I appreciate the willingness of the chairman to add language to this bill that would give priority funding through the high-risk youth grant program to currently running Community Schools grants that are successful.

The program in Vermont is called CITYSCAPE. This grant has allowed Barre City to develop partnerships between the schools, the community and other key service providers to target assistance to youth who are at risk of abuse and neglect, at risk of substance abuse and at risk of teen pregnancy. The program seeks to increasing community and school connection to these youth, decrease youth violence and to decrease youth use or potential use of alcohol, tobacco or other drugs.

Mr. JEFFORDS. I thank my colleague for his remarks. We share a commitment to ensure that effective Community Schools programs like CITYSCAPE in Vermont are given priority in funding within the new program for at-risk youth.

I would also add to my colleague from Vermont's remarks that a key component of the Barre City Program is the development of community ownership and a volunteer base that will ensure the continuation of this program beyond the end of the grant cycle.

Our intention is to work with the committee to make sure that CITYSCAPE and other good programs reach the point that they can stand on their own with community support.

Mr. SPECTER. I thank the Senators from Vermont for bringing their concerns about the elimination of this program to me. I certainly want programs that are successful to continue. I and will work with the House during the conference to make sure that programs that are meeting the needs of high-risk youth can continue.

AIDS DRUG ASSISTANCE PROGRAM AND OTHER PROGRAM FUNDING UNDER THE RYAN WHITE CARE ACT

Mr. D'AMATO. Mr. President, I would like to commend the chairman for his continued leadership in providing substantial support for the Ryan White CARE Act, research through the National Institutes of Health, and various prevention and education programs seeking to discover new treatments and a cure for the HIV/AIDS virus. Each of these areas deserves the full attention from congressional leaders if we are to finally win our struggle with this dreaded virus.

However, I am particularly concerned that the level of funding for the AIDS Drug Assistance Program [ADAP] under title II of the Ryan White CARE Act will fail to meet the needs of those suffering from this terrible disease. With some of the recent advances in HIV/AIDS drug treatments, many seem to believe that the pressure imposed by this disease upon our society has been relieved. However, I believe the Senate must increase the ADAP funding level for fiscal year 1998 to the House level of $132 million in order to protect our citizens from this continued deadly disease.

As with every State, in my State of New York many working people living with HIV/AIDS must rely on the ADAP Program for their only access to the new effective combination therapy AIDS medications which were discovered and produced through our public and private investment in research at the National Institutes of Health and in private industry. These newly approved drugs offer real hope for continued life to hundreds of thousands of Americans living with HIV/AIDS. With millions of Americans lacking health insurance with adequate prescription benefits, the ability to access these treatments has literally become a matter of life and death for thousands of these Americans.

Currently, the ADAP Program in New York State provides treatment opportunities to nearly 17,000 people with many, many more projected to seek treatment in the future. Congress has the ability to lead the way to assure access to these therapies and the hope they provide against the inescapable progression to an untimely death. We must seize this opportunity. No one wants to be in the position of telling a constituent that they are out of luck this year and that maybe next year we can do something. Every State will face intolerable choices in deciding who shall have the opportunity to receive these life-saving treatments without an adequate ADAP funding level. I ask the chairman to leave no stone unturned in obtaining the funds so desperately needed for us to offer a chance for life to every American living with HIV/AIDS in the United States. I know my colleague from California would like to provide further emphasis to this statement.

Mrs. BOXER. Mr. President, I thank the Senator from New York and I appreciate his comments on the Ryan White CARE Act. This vital program is literally a life line for people living with HIV and AIDS.

AIDS continues to be the leading cause of death for Americans between the ages of 25 and 44. Over a half million Americans have been diagnosed with AIDS, and over 360,000 have died of the disease. In the coming year, HIV will infect some 40,000 Americans, half of them under the age of 25.

The Ryan White CARE Act demonstrates our commitment to providing necessary health care services to these individuals and families with HIV, and to assisting communities hardest hit by the AIDS epidemic.

Recent advances in research have provided us with new and effective combination therapy AIDS medications. These newly approved drugs offer the first real hope to the hundreds of thousands of people living with HIV and AIDS.

Under title II of the CARE Act, the ADAP program provides access to these essential, life-saving drugs to the people who desperately need them. It literally makes the difference between life and death for tens of thousands of Americans. It is because of this new hope that new clients are coming to get the treatment they need to survive, and that is why increased funding for this program is vital.

We have the ability and the responsibility to make these drugs available to people who need them. I don't believe anyone in this room would want his or her State to be in a position of having to cut patients off life-saving drugs because funding is inadequate.

Given that the number of individuals with HIV continues to escalate, our commitment to providing AIDS care must remain firm. Therefore, I strongly urge my colleagues in conference to adopt the highest funding for the Ryan White CARE Act. I urge support of the House funding levels for title I and title II and the Senate levels for title III, IV, and V.

In addition, I would like to reiterate my strong support for AIDS prevention and education programs through the Centers for Disease Control. These programs are key to stopping the spread of HIV infection and saving lives, and I urge the highest funding level possible.

Individuals living with this disease and their loved ones known that these programs are saving lives, enabling patients to live life to the fullest, and preventing new infections. It is our obligation to provide the highest level of funding possible for these critical appropriations.

Again, I thank the Senator from New York and the chairman and ranking member of the subcommittee for their tireless work on behalf of people with HIV and AIDS.

Mr. D'AMATO. I thank the Senator from California for providing further perspective on this issue. Mr. President, we again thank the chairman for his leadership and support of the Ryan White CARE Act in the past. We hope to secure your continued support for Senate appropriations for titles III, IV, and V of the Ryan White CARE Act, and at least the House funding levels for titles I and II in conference committee. In particular, the ADAP funding level affects every State in our great Nation and, therefore, I look forward to working with him and our colleagues to ensure that every American will have access to any HIV/AIDS treatment he or she may require.

COMMUNITY EMPLOYMENT ALLIANCE

Mrs. HUTCHISON. Mr. President, I would like to bring to the attention of the Senator the Community Employment Alliance [CEA], which is sponsored by the Enterprise Foundation. It is my hope that the Department of Labor may identify the CEA as a project for full consideration under research, demonstration, and pilot program funds being made available to the Department in the 1998 Labor, Health and Human Services, and Education Appropriations Act.

CEA is working in eight cities nationwide, including San Antonio and Dallas in my home State, to develop an effective job opportunity system for low-income individuals, particularly those on public assistance. CEA offers a new, comprehensive model for developing job opportunities for low-income citizens based on the utilization of community-based organizations, in conjunction with private sector and Government resources.

CEA's approach envisions the development of compacts involving city and State governments, local and regional business leaders, and community-based organizations. Each local alliance will formulate strategies and implement programs for creating an effective job opportunity system for welfare recipients. The ultimate goal of the CEA, therefore, is to improve job prospects for unemployed and underemployed residents of distressed inner-city neighborhoods through well-coordinated, high performance economic and work force development activities. I believe that it is this type of integrated approach that will help move more Americans from welfare to work.

Mr. SPECTER. I thank Senator HUTCHISON for bringing this important project to my attention and the attention of the committee. There is much work to be done in assisting those on welfare to gain a better life. Approaches to this problem which fully integrate business, civic, and community leaders are in my view the most likely to succeed. Therefore, I believe that the Department of Labor should, in fact, give full consideration to the request for funds made by the Community Employment Alliance for this purpose.

BOSTON SYMPHONY ORCHESTRA

MR. KENNEDY. Mr. President, one of the integral parts of a classical education includes a knowledge and appreciation of music. Studies have shown that there is a direct correlation between children with an early exposure to music and high achievement in mathematics. Music provides a universal language that knows no boundaries, and heightens a person's awareness and sensitivity to the world around them.

Boston Symphony Orchestra, one of the world's leading symphonies, has developed in collaboration with area schools a model youth concert program which contributes to a student's understanding and appreciation of music. It annually conducts 15 youth concerts for approximately 40,000 elementary, middle and high school students from over 120 communities throughout Massachusetts. BSO also provides training for music teachers and manages a resources center for educators in New England.

The House fiscal year 1998 Labor, Health and Human Services, and Education Appropriations Committee report contains language that encourages the Department of Education's fund for the Improvement of Education to support the operation and evaluation of such a program as the Boston Symphony Orchestra's model youth concert program. I urge the final conference report to adopt this language, which will broaden the horizons of our children's education.

Mr. HARKIN. Mr. President, what is the parliamentary situation at this time?

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

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I want to take just a minute before the final passage of this bill to comment upon an amendment that was just adopted here, the amendment offered by the Senator from Washington State. I am concerned about the impact of that amendment and what it is going to do to education.

I do not know how many people understand what we have just done here. What we have just said in adopting this amendment on such a narrow vote is that many education programs including vocational education, bilingual education, education technology, immigrant education, safe and drug-free schools, and Goals 2000—some you may like, some you may not like, but all of these programs are now part of a block grant. This money now goes to local education agencies in the form of a block grant. All of the things that we have worked so hard on, on a bipartisan basis, in terms of technology, safe and drug-free schools, vocational education, all of these are gone under this amendment.

Mr. President, $4 billion of that money now goes out to local education agencies in the form of a block grant. There will be no requirements on how this money is to be spent—none whatsoever. In other words, they can take the money and build a swimming pool and say the heck with education technology or safe and drug-free schools or vocational education. There is no limitation. We have had in the past limitations on how much of this money could be used for administrative costs, to pay for superintendents and all the administrative people who make up our schools.

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

Two minutes equally before the vote.

Mr. HARKIN. Mr. President, I ask unanimous consent for an additional minute.

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

Mr. HARKIN. And the other side, too, get an additional minute.

Mr. President, we have had requirements in the past that no more than a certain amount of this money could be spent for administration because we wanted it to get to the kids and we wanted it to get to vocational education and technology.

These requirements are done away with in this amendment. So now they can use this money to pay superintendents or other school personnel more money.

Mr. DODD. Will my colleague yield?

Mr. HARKIN. I will yield.

Mr. DODD. Would my colleague not disagree with me, Mr. President, if this bill comes back from conference with this measure, we ought to filibuster this bill; it ought not to pass?

Mr. HARKIN. I appreciate that. I just have a sense that some people may

have voted on this and not understood exactly what was going on in terms of stripping away all of these measures and taking away the prohibition that we had in the past to limit how much could be spent on administration. That is all taken off.

I heard time and time again from people on both sides of the aisle how we should cut down on how much money we put into administration. I agree with that. We all agreed with that. Now those restrictions are gone. They will be able to use this money for whatever they want. I just think it is a terrible mistake on the part of the Senate to have adopted this amendment.

I appreciate the time.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. GORTON. Mr. President, I find it regrettable but not surprising that the expressions against the amendment which we just adopted are based on the proposition that all knowledge with respect to educational priorities is lodged right here among the 100 Members of this body, and, if not here, certainly no closer to our students than the Department of Education's bureaucrats here in Washington, DC; that if we are to allow local school board members, teachers, and parents to decide how they would like to spend the money on the education of their children setting different priorities in different school districts, they will, of course, waste the money, ignore our children, and use it to build swimming pools.

Well, Mr. President, I wonder why it is that the voters are so wise when they pick us and so foolish when they pick local school board members. That is the real issue here. Do we trust the people who are running our schools to run them properly, to care for the education of their children and to do a better job than Washington, DC, bureaucrats?

Fifty-one of you voted that we trust our educators.

The PRESIDING OFFICER. All time having expired, the vote now is on final passage.

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

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question, 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. 235 Leg.]

YEAS—92

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

NAYS—8

Ashcroft	Gramm	Sessions
Coats	Helms	Smith (NH)
Faircloth	Inhofe	

The bill (S. 1061), as amended, was passed, as follows:

S. 1061

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1998, and for other purposes, namely:

TITLE I—DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND EMPLOYMENT SERVICES

For necessary expenses of the Job Training Partnership Act, as amended, including the purchase and hire of passenger motor vehicles, the construction, alteration, and repair of buildings and other facilities, and the purchase of real property for training centers as authorized by the Job Training Partnership Act; the Stewart B. McKinney Homeless Assistance Act; the Women in Apprenticeship and Nontraditional Occupations Act; the National Skill Standards Act of 1994; and the School-to-Work Opportunities Act; $5,010,053,000 plus reimbursements, of which $3,815,062,000 is available for obligation for the period July 1, 1998 through June 30, 1999; of which $118,491,000 is available for the period July 1, 1998 through June 30, 2001 for necessary expenses of construction, rehabilitation, and acquisition of Job Corps centers; and of which $200,000,000 shall be available from July 1, 1998 through September 30, 1999, for carrying out activities of the School-to-Work Opportunities Act: *Provided,* That $55,127,000 shall be for carrying out section 401 of the Job Training Partnership Act, $72,749,000 shall be for carrying out section 402 of such Act, $7,300,000 shall be for carrying out section 441 of such Act, $10,000,000 shall be for all activities conducted by and through the National Occupational Information Coordinating Committee under such Act, $955,000,000 shall be for carrying out title II, part A of such Act, and $129,965,000 shall be for carrying out title II, part C of such Act: *Provided further,* That the National Occupational Information Coordinating Committee is authorized, effective upon enactment, to charge fees for publications, training and technical assistance developed by the National Occupational Information Coordinating Committee: *Provided further,* That revenues received from publications and delivery of technical assistance and training, notwithstanding 31 U.S.C. 3302, shall be credited to the National Occupational Information Coordinating Committee program account and shall be available to the National Occupational Information Coordinating Committee without further appropriations, so long as such revenues are used for authorized activities of the National Occupational Information Coordinating Committee: *Provided further,* That no funds from any other appropriation shall be used to provide meal services at or for Job Corps centers: *Provided further,* That funds provided for title III of the Job Training Partnership Act shall not be subject to the limitation contained in subsection (b) of section 315 of such Act; that the waiver described in section 315(a)(2) may be granted if a substate grantee demonstrates to the Governor that such waiver is appropriate due to the availability of low-cost retraining services, is necessary to facilitate the provision of needs-related payments to accompany long-term training, or is necessary to facilitate the provision of appropriate basic readjustment services; and that funds provided for discretionary grants under part B of such title III may be used to provide needs-related payments to participants who, in lieu of meeting the enrollment requirements under section 314(e) of such Act, are enrolled in training by the end of the sixth week after grant funds have been awarded: *Provided further,* That funds provided to carry out section 324 of such Act may be used for demonstation projects that provide assistance to new entrants in the workforce and incumbent workers: *Provided further,* That service delivery areas may transfer funding provided herein under authority of title II, parts B and C of the Job Training Partnership Act between the programs authorized by those titles of the Act, if the transfer is approved by the Governor: *Provided further,* That service delivery areas and substate areas may transfer up to 20 percent of the funding provided herein under authority of title II, part A and title III of the Job Training Partnership Act between the programs authorized by those titles of the Act, if such transfer is approved by the Governor: *Provided further,* That, notwithstanding any other provision of law, any proceeds from the sale of Job Corps center facilities shall be retained by the Secretary of Labor to carry out the Job Corps program: *Provided further,* That notwithstanding any other provision of law, the Secretary of Labor may waive any of the statutory or regulatory requirements of titles I–III of the Job Training Partnership Act (except for requirements relating to wage and labor standards, worker rights, participation and protection, grievance procedures and judicial review, nondiscrimination, allocation of funds to local areas, eligibility, review and approval of plans, the establishment and functions of service delivery areas and private industry councils, and the basic purposes of the Act), and any of the statutory or regulatory requirements of sections 8–10 of the Wagner-Peyser Act (except for requirements relating to the provision of services to unemployment insurance claimants and veterans, and to universal access to basic labor exchange services without cost to job seekers), only for funds available for expenditure in program year 1998, pursuant to a request submitted by a State which identifies the statutory or regulatory requirements that are requested to be waived and the goals which the State or local service delivery areas intend to achieve, describes the actions that the State or local service delivery areas have undertaken to remove State or local statutory or regulatory barriers, describes the goals of the waiver and the expected programmatic outcomes if the request is granted, describes the individuals impacted by the waiver, and describes the

process used to monitor the progress in implementing a waiver, and for which notice and an opportunity to comment on such request has been provided to the organizations identified in section 105(a)(1) of the Job Training Partnership Act, if and only to the extent that the Secretary determines that such requirements impede the ability of the State to implement a plan to improve the workforce development system and the State has executed a Memorandum of Understanding with the Secretary requiring such State to meet agreed upon outcomes and implement other appropriate measures to ensure accountability: *Provided further,* That the Secretary of Labor shall establish a workforce flexibility (work-flex) partnership demonstration program under which the Secretary shall authorize not more than six States, of which at least three States shall each have populations not in excess of 3,500,000, with a preference given to those States that have been designated Ed-Flex Partnership States under section 311(e) of Public Law 103–227, to waive any statutory or regulatory requirement applicable to service delivery areas or substate areas within the State under titles I–III of the Job Training Partnership Act (except for requirements relating to wage and labor standards, grievance procedures and judicial review, nondiscrimination, allotment of funds, and eligibility), and any of the statutory or regulatory requirements of sections 8–10 of the Wagner-Peyser Act (except for requirements relating to the provision of services to unemployment insurance claimants and veterans, and to universal access to basic labor exchange services without cost to job seekers), for a duration not to exceed the waiver period authorized under section 311(e) of Public Law 103–227, pursuant to a plan submitted by such States and approved by the Secretary for the provision of workforce employment and training activities in the States, which includes a description of the process by which service delivery areas and substate areas may apply for and have waivers approved by the State, the requirements of the Wagner-Peyser Act to be waived, the outcomes to be achieved and other measures to be taken to ensure appropriate accountability for Federal funds.

For necessary expenses of Opportunity Areas of Out-of-School Youth, in addition to amounts otherwise provided herein, $250,000,000, to be available for obligation for the period October 1, 1998 through September 30, 1999, if job training reform legislation authorizing this or similar at-risk youth projects is enacted by April 1, 1998.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

(TRANSFER OF FUNDS)

To carry out the activities for national grants or contracts with public agencies and public or private nonprofit organizations under paragraph (1)(A) of section 506(a) of title V of the Older Americans Act of 1965, as amended, or to carry out older worker activities as subsequently authorized, $353,340,000.

To carry out the activities for grants to States under paragraph (3) of section 506(a) of title V of the Older Americans Act of 1965, as amended, or to carry out older worker activities as subsequently authorized, $99,660,000.

The funds appropriated under this heading shall be transferred to and merged with the Department of Health and Human Services, ''Aging Services Programs'', for the same purposes and the same period as the account to which transferred, following the enactment of legislation authorizing the administration of the program by that Department.

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

For payments during the current fiscal year of trade adjustment benefit payments and allowances under part I; and for training, allowances for job search and relocation, and related State administrative expenses under part II, subchapters B and D, chapter 2, title II of the Trade Act of 1974, as amended, $349,000,000, together with such amounts as may be necessary to be charged to the subsequent appropriation for payments for any period subsequent to September 15 of the current year.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For authorized administrative expenses, $173,452,000, together with not to exceed $3,288,476,000 (including not to exceed $1,228,000 which may be used for amortization payments to States which had independent retirement plans in their State employment service agencies prior to 1980, and including not to exceed $2,000,000 which may be obligated in contracts with non-State entities for activities such as occupational and test research activities which benefit the Federal-State Employment Service System), which may be expended from the Employment Security Administration account in the Unemployment Trust Fund including the cost of administering section 1201 of the Small Business Job Protection Act of 1996, section 7(d) of the Wagner-Peyser Act, as amended, the Trade Act of 1974, as amended, the Immigration Act of 1990, and the Immigration and Nationality Act, as amended, and of which the sums available in the allocation for activities authorized by title III of the Social Security Act, as amended (42 U.S.C. 502–504), and the sums available in the allocation for necessary administrative expenses for carrying out 5 U.S.C. 8501–8523, shall be available for obligation by the States through December 31, 1998, except that funds used for automation acquisitions shall be available for obligation by States through September 30, 2000; and of which $173,452,000, together with not to exceed $738,283,000 of the amount which may be expended from said trust fund, shall be available for obligation for the period July 1, 1998 through June 30, 1999, to fund activities under the Act of June 6, 1933, as amended, including the cost of penalty mail authorized under 39 U.S.C. 3202(a)(1)(E) made available to States in lieu of allotments for such purpose, and of which $150,000,000 shall be available solely for the purpose of assisting States to convert their automated State employment security agency systems to be year 2000 compliant, and of which $212,333,000 shall be available only to the extent necessary for additional State allocations to administer unemployment compensation laws to finance increases in the number of unemployment insurance claims filed and claims paid or changes in a State law: *Provided,* That to the extent that the Average Weekly Insured Unemployment (AWIU) for fiscal year 1998 is projected by the Department of Labor to exceed 2,789,000 an additional $28,600,000 shall be available for obligation for every 100,000 increase in the AWIU level (including a pro rata amount for any increment less than 100,000) from the Employment Security Administration Account of the Unemployment Trust Fund: *Provided further,* That funds appropriated in this Act which are used to establish a national one-stop career center network may be obligated in contracts, grants or agreements with non-State entities: *Provided further,* That funds appropriated under this Act for activities authorized under the Wagner-Peyser Act, as amended, and title III of the Social Security Act, may be used by the States to fund integrated Employment Service and Unemployment Insurance automation efforts, notwithstanding cost allocation principles prescribed under Office of Management and Budget Circular A–87.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

For repayable advances to the Unemployment Trust Fund as authorized by sections 905(d) and 1203 of the Social Security Act, as amended, and to the Black Lung Disability Trust Fund as authorized by section 9501(c)(1) of the Internal Revenue Code of 1954, as amended; and for nonrepayable advances to the Unemployment Trust Fund as authorized by section 8509 of title 5, United States Code, section 104(d) of Public Law 102–164, and section 5 of Public Law 103–6, and to the ''Federal unemployment benefits and allowances'' account, to remain available until September 30, 1999, $392,000,000.

In addition, for making repayable advances to the Black Lung Disability Trust Fund in the current fiscal year after September 15, 1998, for costs incurred by the Black Lung Disability Trust Fund in the current fiscal year, such sums as may be necessary.

PROGRAM ADMINISTRATION

For expenses of administering employment and training programs, $88,308,000, together with not to exceed $41,285,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

PENSION AND WELFARE BENEFITS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Pension and Welfare Benefits Administration, $82,000,000, of which $3,000,000 shall remain available through September 30, 1999 for expenses of completing the revision of the processing of employee benefit plan returns.

PENSION BENEFIT GUARANTY CORPORATION

PENSION BENEFIT GUARANTY CORPORATION FUND

The Pension Benefit Guaranty Corporation is authorized to make such expenditures, including financial assistance authorized by section 104 of Public Law 96–364, within limits of funds and borrowing authority available to such Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program through September 30, 1998, for such Corporation: *Provided,* That not to exceed $10,433,000 shall be available for administrative expenses of the Corporation: *Provided further,* That expenses of such Corporation in connection with the termination of pension plans, for the acquisition, protection or management, and investment of trust assets, and for benefits administration services shall be considered as nonadministrative expenses for the purposes hereof, and excluded from the above limitation.

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Employment Standards Administration, including reimbursement to State, Federal, and local agencies and their employees for inspection services rendered, $299,660,000, together with $993,000 which may be expended from the Special Fund in accordance with sections 39(c) and 44(j) of the Longshore and Harbor Workers' Compensation Act: *Provided further,* That the Secretary of Labor is authorized to accept, retain, and spend, until expended, in the name of the Department of Labor, all sums of money ordered to be paid

to the Secretary of Labor, in accordance with the terms of the Consent Judgment in Civil Action No. 91–0027 of the United States District Court for the District of the Northern Mariana Islands (May 21, 1992): *Provided further,* That the Secretary of Labor is authorized to establish and, in accordance with 31 U.S.C. 3302, collect and deposit in the Treasury fees for processing applications and issuing certificates under sections 11(d) and 14 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 211(d) and 214) and for processing applications and issuing registrations under title I of the Migrant and Seasonal Agricultural Worker Protection Act, 29 U.S.C. 1801 et seq.

SPECIAL BENEFITS

(INCLUDING TRANSFER OF FUNDS)

For the payment of compensation, benefits, and expenses (except administrative expenses) accruing during the current or any prior fiscal year authorized by title 5, chapter 81 of the United States Code; continuation of benefits as provided for under the head ''Civilian War Benefits'' in the Federal Security Agency Appropriation Act, 1947; the Employees' Compensation Commission Appropriation Act, 1944; and sections 4(c) and 5(f) of the War Claims Act of 1948 (50 U.S.C. App. 2012); and 50 per centum of the additional compensation and benefits required by section 10(h) of the Longshore and Harbor Workers' Compensation Act, as amended, $201,000,000 together with such amounts as may be necessary to be charged to the subsequent year appropriation for the payment of compensation and other benefits for any period subsequent to August 15 of the current year: *Provided,* That amounts appropriated may be used under section 8104 of title 5, United States Code, by the Secretary to reimburse an employer, who is not the employer at the time of injury, for portions of the salary of a reemployed, disabled beneficiary: *Provided further,* That balances of reimbursements unobligated on September 30, 1997, shall remain available until expended for the payment of compensation, benefits, and expenses: *Provided further,* That in addition there shall be transferred to this appropriation from the Postal Service and from any other corporation or instrumentality required under section 8147(c) of title 5, United States Code, to pay an amount for its fair share of the cost of administration, such sums as the Secretary of Labor determines to be the cost of administration for employees of such fair share entities through September 30, 1998: *Provided further,* That of those funds transferred to this account from the fair share entities to pay the cost of administration, $7,269,000 shall be made available to the Secretary of Labor for expenditures relating to capital improvements in support of Federal Employees' Compensation Act administration, and the balance of such funds shall be paid into the Treasury as miscellaneous receipts: *Provided further,* That the Secretary may require that any person filing a notice of injury or a claim for benefits under chapter 81 of title 5, United States Code, or 33 U.S.C. 901 et seq., provide as part of such notice and claim, such identifying information (including Social Security account number) as such regulations may prescribe.

BLACK LUNG DISABILITY TRUST FUND

(INCLUDING TRANSFER OF FUNDS)

For payments from the Black Lung Disability Trust Fund, $1,007,000,000, of which $960,650,000 shall be available until September 30, 1999, for payment of all benefits as authorized by section 9501(d) (1), (2), (4), and (7) of the Internal Revenue Code of 1954, as amended, and interest on advances as authorized by section 9501(c)(2) of that Act, and of which $26,147,000 shall be available for transfer to Employment Standards Administration, Salaries and Expenses, $19,551,000 for transfer to Departmental Management, Salaries and Expenses, $296,000 for transfer to Departmental Management, Office of Inspector General, and $356,000 for payment into miscellaneous receipts for the expenses of the Department of Treasury, for expenses of operation and administration of the Black Lung Benefits program as authorized by section 9501(d)(5) of that Act: *Provided,* That, in addition, such amounts as may be necessary may be charged to the subsequent year appropriation for the payment of compensation, interest, or other benefits for any period subsequent to August 15 of the current year.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Occupational Safety and Health Administration, $336,205,000, including not to exceed $77,941,000 which shall be the maximum amount available for grants to States under section 23(g) of the Occupational Safety and Health Act, which grants shall be no less than fifty percent of the costs of State occupational safety and health programs required to be incurred under plans approved by the Secretary under section 18 of the Occupational Safety and Health Act of 1970; and, in addition, notwithstanding 31 U.S.C. 3302, the Occupational Safety and Health Administration may retain up to $750,000 per fiscal year of training institute course tuition fees, otherwise authorized by law to be collected, and may utilize such sums for occupational safety and health training and education grants: *Provided,* That, notwithstanding 31 U.S.C. 3302, the Secretary of Labor is authorized, during the fiscal year ending September 30, 1998, to collect and retain fees for services provided to Nationally Recognized Testing Laboratories, and may utilize such sums, in accordance with the provisions of 29 U.S.C. 9a, to administer national and international laboratory recognition programs that ensure the safety of equipment and products used by workers in the workplace: *Provided further,* That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 which is applicable to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees: *Provided further,* That no funds appropriated under this paragraph shall be obligated or expended to administer or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 with respect to any employer of ten or fewer employees who is included within a category having an occupational injury lost workday case rate, at the most precise Standard Industrial Classification Code for which such data are published, less than the national average rate as such rates are most recently published by the Secretary, acting through the Bureau of Labor Statistics, in accordance with section 24 of that Act (29 U.S.C. 673), except—

(1) to provide, as authorized by such Act, consultation, technical assistance, educational and training services, and to conduct surveys and studies;

(2) to conduct an inspection or investigation in response to an employee complaint, to issue a citation for violations found during such inspection, and to assess a penalty for violations which are not corrected within a reasonable abatement period and for any willful violations found;

(3) to take any action authorized by such Act with respect to imminent dangers;

(4) to take any action authorized by such Act with respect to health hazards;

(5) to take any action authorized by such Act with respect to a report of an employment accident which is fatal to one or more employees or which results in hospitalization of two or more employees, and to take any action pursuant to such investigation authorized by such Act; and

(6) to take any action authorized by such Act with respect to complaints of discrimination against employees for exercising rights under such Act: *Provided further,* That the foregoing proviso shall not apply to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees.

MINE SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Mine Safety and Health Administration, $205,804,000, including purchase and bestowal of certificates and trophies in connection with mine rescue and first-aid work, and the hire of passenger motor vehicles; the Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private; the Mine Safety and Health Administration is authorized to promote health and safety education and training in the mining community through cooperative programs with States, industry, and safety associations; and any funds available to the Department may be used, with the approval of the Secretary, to provide for the costs of mine rescue and survival operations in the event of a major disaster: *Provided,* That none of the funds appropriated under this paragraph shall be obligated or expended to carry out section 115 of the Federal Mine Safety and Health Act of 1977 or to carry out that portion of section 104(g)(1) of such Act relating to the enforcement of any training requirements, with respect to shell dredging, or with respect to any sand, gravel, surface stone, surface clay, colloidal phosphate, or surface limestone mine.

BUREAU OF LABOR STATISTICS

SALARIES AND EXPENSES

For necessary expenses for the Bureau of Labor Statistics, including advances or reimbursements to State, Federal, and local agencies and their employees for services rendered, $320,097,000, of which $15,430,000 shall be for expenses of revising the Consumer Price Index and shall remain available until September 30, 1999, together with not to exceed $52,574,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses for Departmental Management, including the hire of three sedans, and including up to $4,439,000 for the President's Committee on Employment of People With Disabilities, $152,131,000; together with not to exceed $282,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund: *Provided,* That no funds made available by this Act may be used by the Solicitor of Labor to participate in a review in any United States court of appeals of any decision made by the Benefits Review Board under section 21 of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 921) where such participation is precluded by the decision of the United States Supreme Court in Director, Office

of Workers' Compensation Programs v. Newport News Shipbuilding, 115 S. Ct. 1278 (1995): *Provided further,* That no funds made available by this Act may be used by the Secretary of Labor to review a decision under the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 901 et seq.) that has been appealed and that has been pending before the Benefits Review Board for more than 12 months: *Provided further,* That any such decision pending a review by the Benefits Review Board for more than one year shall be considered affirmed by the Benefits Review Board on that date, and shall be considered the final order of the Board for purposes of obtaining a review in the United States courts of appeals: *Provided further,* That these provisions shall not be applicable to the review of any decision issued under the Black Lung Benefits Act (30 U.S.C. 901 et seq.).

WORKING CAPITAL FUND

The paragraph under this heading in Public Law 85–67 (29 U.S.C. 563) is amended by striking the last period and inserting after ''appropriation action'' the following: '': *Provided further,* That the Secretary of Labor may transfer annually an amount not to exceed $3,000,000 from unobligated balances in the Department's salaries and expenses accounts, to the unobligated balance of the Working Capital Fund, to be merged with such Fund and used for the acquisition of capital equipment and the improvement of financial management, information technology and other support systems, and to remain available until expended: *Provided further,* That the unobligated balance of the Fund shall not exceed $20,000,000.''.

ASSISTANT SECRETARY FOR VETERANS EMPLOYMENT AND TRAINING

Not to exceed $181,955,000 may be derived from the Employment Security Administration account in the Unemployment Trust Fund to carry out the provisions of 38 U.S.C. 4100–4110A and 4321–4327, and Public Law 103–353, and which shall be available for obligation by the States through December 31, 1998.

OFFICE OF INSPECTOR GENERAL

For salaries and expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $43,105,000, together with not to exceed $3,645,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

GENERAL PROVISIONS

SEC. 101. None of the funds appropriated in this title for the Job Corps shall be used to pay the compensation of an individual, either as direct costs or any proration as an indirect cost, at a rate in excess of $125,000.

(TRANSFER OF FUNDS)

SEC. 102. Not to exceed 1 percent of any discretionary funds (pursuant to the Balanced Budget and Emergency Deficit Control Act, as amended) which are appropriated for the current fiscal year for the Department of Labor in this Act may be transferred between appropriations, but no such appropriation shall be increased by more than 3 percent by any such transfer: *Provided,* That the Appropriations Committees of both Houses of Congress are notified at least fifteen days in advance of any transfer.

SEC. 103. Funds shall be available for carrying out title IV–B of the Job Training Partnership Act, notwithstanding section 427(c) of that Act, if a Job Corps center fails to meet national performance standards established by the Secretary.

SEC. 104. None of the funds made available in this Act may be used by the Occupational Safety and Health Administration to promulgate or issue any proposed or final standard regarding ergonomic protection before September 30, 1998: *Provided,* That nothing in this section shall be construed to limit the Occupational Safety and Health Administration from issuing voluntary guidelines on ergonomic protection or from developing a proposed standard regarding ergonomic protection: *Provided further,* That no funds made available in this Act may be used by the Occupational Safety and Health Administration to enforce voluntary guidelines through section 5 (general duty clause) of the Occupational Safety and Health Act.

SEC. 105. Section 13(b)(12) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(b)(12)) is amended by inserting after ''water'' the following: '', at least 90 percent of which is ultimately delivered''.

SEC. 106. (a) IN GENERAL.—Except as provided in subsection (b), none of the funds made available under this Act, or any other Act making appropriations for fiscal year 1998, may be used by the Department of Labor or the Department of Justice to conduct a rerun of a 1996 election for the office of President, General Secretary, Vice-President, or Trustee of the International Brotherhood of Teamsters.

(b) EXCEPTION.—

(1) IN GENERAL.—Upon the submission to Congress of a certification by the President of the United States that the International Brotherhood of Teamsters does not have funds sufficient to conduct a rerun of a 1996 election for the office of President, General Secretary, Vice-President, or Trustee of the International Brotherhood of Teamsters, the President of the United States may transfer funds from the Department of Justice and the Department of Labor for the conduct and oversight of such a rerun election.

(2) REQUIREMENT.—Prior to the transfer of funds under paragraph (1), the International Brotherhood of Teamsters shall agree to repay the Secretary of the Treasury for the costs incurred by the Department of Labor and the Department of Justice in connection with the conduct of an election described in paragraph (1). Such agreement shall provide that any such repayment plan be reasonable and practicable, as determined by the Attorney General and the Secretary of the Treasury, and be structured in a manner that permits the International Brotherhood of Teamsters to continue to operate.

(3) REPAYMENT PLAN.—The International Brotherhood of Teamsters shall submit to the President of the United States, the Majority and Minority Leaders of the Senate, the Majority and Minority Leaders of the House of Representatives, and the Speaker of the House of Representatives, a plan for the repayment of amounts described in paragraph (2), at an interest rate equal to the Federal underpayment rate established under section 6621(a)(2) of the Internal Revenue Code of 1986 as in effect for the calender quarter in which the plan is submitted, prior to the expenditure of any funds under this section.

(c) EFFECTIVE DATE.—This section shall take effect one day after enactment of this Act.

This title may be cited as the ''Department of Labor Appropriations Act, 1998''.

TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

For carrying out titles II, III, VII, VIII, X, XII, XVI, XIX, and XXVI of the Public Health Service Act, section 427(a) of the Federal Coal Mine Health and Safety Act, title V of the Social Security Act, and the Health Care Quality Improvement Act of 1986, as amended, and the Native Hawaiian Health Care Act of 1988, as amended, $3,449,071,000, of which $225,000 shall remain available until expended for interest subsidies on loan guarantees made prior to fiscal year 1981 under part B of title VII of the Public Health Service Act: *Provided,* That the Division of Federal Occupational Health may utilize personal services contracting to employ professional management/administrative and occupational health professionals: *Provided further,* That in addition to fees authorized by section 427(b) of the Health Care Quality Improvement Act of 1986, fees shall be collected for the full disclosure of information under the Act sufficient to recover the full costs of operating the National Practitioner Data Bank, and shall remain available until expended to carry out that Act: *Provided further,* That no more than $5,000,000 is available for carrying out the provisions of Public Law 104–73: *Provided further,* That of the funds made available under this heading, $208,452,000 shall be for the program under title X of the Public Health Service Act to provide for voluntary family planning projects: *Provided further,* That amounts provided to said projects under such title shall not be expended for abortions, that all pregnancy counseling shall be nondirective, and that such amounts shall not be expended for any activity (including the publication or distribution of literature) that in any way tends to promote public support or opposition to any legislative proposal or candidate for public office: *Provided further,* That $217,000,000 shall be for State AIDS Drug Assistance Programs authorized by section 2616 of the Public Health Service Act: *Provided further,* That notwithstanding any other provision of law, funds made available under this heading may be used to continue operating the Council on Graduate Medical Education established by section 301 of Public Law 102–408: *Provided further,* That, of the funds made available under this heading, not more than $6,000,000 shall be made available and shall remain available until expended for loan guarantees for loans funded under part A of title XVI of the Public Health Service Act as amended, made by non-Federal lenders for the construction, renovation, and modernization of medical facilities that are owned and operated by health centers, and for loans made to health centers under section 330(d) of the Public Health Service Act as amended by Public Law 104–299, and that such funds be available to subsidize guarantees of total loan principal in an amount not to exceed $80,000,000: *Provided further,* That notwithstanding section 502(a)(1) of the Social Security Act, not to exceed $103,609,000 is available for carrying out special projects of regional and national significance pursuant to section 501(a)(2) of such Act.

MEDICAL FACILITIES GUARANTEE AND LOAN FUND

FEDERAL INTEREST SUBSIDIES FOR MEDICAL FACILITIES

For carrying out subsections (d) and (e) of section 1602 of the Public Health Service Act, $6,000,000, together with any amounts received by the Secretary in connection with loans and loan guarantees under title VI of the Public Health Service Act, to be available without fiscal year limitation for the payment of interest subsidies. During the fiscal year, no commitments for direct loans or loan guarantees shall be made.

HEALTH EDUCATION ASSISTANCE LOANS PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For the cost of guaranteed loans, such sums as may be necessary to carry out the purpose of the program, as authorized by title VII of the Public Health Service Act, as amended: *Provided,* That such costs, including the cost of modifying such loans, shall be

as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That these funds are available to subsidize gross obligations for the total loan principal any part of which is to be guaranteed at not to exceed $85,000,000: *Provided further,* That the Secretary may use up to $1,000,000 derived by transfer from insurance premiums collected from guaranteed loans made under title VII of the Public Health Service Act for the purpose of carrying out section 709 of that Act. In addition, for administrative expenses to carry out the guaranteed loan program, $2,688,000.

VACCINE INJURY COMPENSATION PROGRAM TRUST FUND

For payments from the Vaccine Injury Compensation Program Trust Fund, such sums as may be necessary for claims associated with vaccine-related injury or death with respect to vaccines administered after September 30, 1988, pursuant to subtitle 2 of title XXI of the Public Health Service Act, to remain available until expended: *Provided,* That for necessary administrative expenses, not to exceed $3,000,000 shall be available from the Trust Fund to the Secretary of Health and Human Services.

CENTERS FOR DISEASE CONTROL AND PREVENTION

DISEASE CONTROL, RESEARCH, AND TRAINING

To carry out titles II, III, VII, XI, XV, XVII, and XIX of the Public Health Service Act, sections 101, 102, 103, 201, 202, 203, 301, and 501 of the Federal Mine Safety and Health Act of 1977, and sections 20, 21 and 22 of the Occupational Safety and Health Act of 1970, title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980; including insurance of official motor vehicles in foreign countries; and hire, maintenance, and operation of aircraft, $2,317,113,000, of which $23,007,000 shall remain available until expended for equipment and construction and renovation of facilities, and in addition, such sums as may be derived from authorized user fees, which shall be credited to this account: *Provided,* That in addition to amounts provided herein, up to $70,063,000 shall be available from amounts available under section 241 of the Public Health Service Act, to carry out the National Center for Health Statistics surveys: *Provided further,* That none of the funds made available for injury prevention and control at the Centers for Disease Control and Prevention may be used to advocate or promote gun control: *Provided further,* That the Director may redirect the total amount made available under authority of Public Law 101–502, section 3, dated November 3, 1990, to activities the Director may so designate: *Provided further,* That the Congress is to be notified promptly of any such transfer.

In addition, $51,000,000, to be derived from the Violent Crime Reduction Trust Fund, for carrying out sections 40151 and 40261 of Public Law 103–322.

NATIONAL INSTITUTES OF HEALTH

NATIONAL CANCER INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to cancer, $2,558,377,000.

NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to cardiovascular, lung, and blood diseases, and blood and blood products, $1,539,898,000.

NATIONAL INSTITUTE OF DENTAL RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to dental disease, $211,611,000.

NATIONAL INSTITUTE OF DIABETES AND DIGESTIVE AND KIDNEY DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to diabetes and digestive and kidney disease, $883,321,000.

NATIONAL INSTITUTE OF NEUROLOGICAL DISORDERS AND STROKE

For carrying out section 301 and title IV of the Public Health Service Act with respect to neurological disorders and stroke, $781,351,000.

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to allergy and infectious diseases, $1,359,688,000.

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to general medical sciences, $1,058,969,000.

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

For carrying out section 301 and title IV of the Public Health Service Act with respect to child health and human development, $676,870,000.

NATIONAL EYE INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to eye diseases and visual disorders, $357,695,000.

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

For carrying out sections 301 and 311 and title IV of the Public Health Service Act with respect to environmental health sciences, $331,969,000.

NATIONAL INSTITUTE ON AGING

For carrying out section 301 and title IV of the Public Health Service Act with respect to aging, $520,705,000.

NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to arthritis and musculoskeletal and skin diseases, $272,631,000.

NATIONAL INSTITUTE ON DEAFNESS AND OTHER COMMUNICATION DISORDERS

For carrying out section 301 and title IV of the Public Health Service Act with respect to deafness and other communication disorders, $200,428,000.

NATIONAL INSTITUTE OF NURSING RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to nursing research, $64,016,000.

NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM

For carrying out section 301 and title IV of the Public Health Service Act with respect to alcohol abuse and alcoholism, $228,585,000.

NATIONAL INSTITUTE ON DRUG ABUSE

For carrying out section 301 and title IV of the Public Health Service Act with respect to drug abuse, $531,751,000.

NATIONAL INSTITUTE OF MENTAL HEALTH

For carrying out section 301 and title IV of the Public Health Service Act with respect to mental health, $753,334,000.

NATIONAL HUMAN GENOME RESEARCH INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to human genome research, $218,851,000.

NATIONAL CENTER FOR RESEARCH RESOURCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to research resources and general research support grants, $455,805,000: *Provided,* That none of these funds shall be used to pay recipients of the general research support grants program any amount for indirect expenses in connection with such grants: *Provided further,* That $20,000,000 shall be for extramural facilities construction grants.

JOHN E. FOGARTY INTERNATIONAL CENTER

For carrying out the activities at the John E. Fogarty International Center, $28,468,000.

NATIONAL LIBRARY OF MEDICINE

For carrying out section 301 and title IV of the Public Health Service Act with respect to health information communications, $162,825,000, of which $4,000,000 shall be available until expended for improvement of information systems: *Provided,* That in fiscal year 1998, the Library may enter into personal services contracts for the provision of services in facilities owned, operated, or constructed under the jurisdiction of the National Institutes of Health.

OFFICE OF THE DIRECTOR

(INCLUDING TRANSFER OF FUNDS)

For carrying out the responsibilities of the Office of the Director, National Institutes of Health, $292,196,000 of which $40,266,000 shall be for the Office of AIDS Research: *Provided,* That funding shall be available for the purchase of not to exceed five passenger motor vehicles for replacement only: *Provided further,* That the Director may direct up to 1 percent of the total amount made available in this Act to all National Institutes of Health appropriations to activities the Director may so designate: *Provided further,* That no such appropriation shall be decreased by more than 1 percent by any such transfers and that the Congress is promptly notified of the transfer: *Provided further,* That NIH is authorized to collect third party payments for the cost of clinical services that are incurred in National Institutes of Health research facilities and that such payments shall be credited to the National Institutes of Health Management Fund: *Provided further,* That all funds credited to the NIH Management Fund shall remain available for one fiscal year after the fiscal year in which they are deposited: *Provided further,* That up to $500,000 shall be available to carry out section 499 of the Public Health Service Act: *Provided further,* That $13,000,000 shall be available to carry out section 404E of the Public Health Service Act.

BUILDINGS AND FACILITIES

For the study of, construction of, and acquisition of equipment for, facilities of or used by the National Institutes of Health, including the acquisition of real property, $203,500,000, to remain available until expended, of which $90,000,000 shall be for the clinical research center: *Provided,* That, notwithstanding any other provision of law, a single contract or related contracts for the development and construction of the clinical research center may be employed which collectively include the full scope of the project: *Provided further,* That the solicitation and contract shall contain the clause ''availability of funds'' found at 48 CFR 52.232–18.

SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION

SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES

For carrying out titles V and XIX of the Public Health Service Act with respect to substance abuse and mental health services, the Protection and Advocacy for Mentally Ill Individuals Act of 1986, and section 301 of the Public Health Service Act with respect to program management, $2,126,643,000 of which $10,000,000 shall be for grants to rural and Native American projects: *Provided,* That in addition to amounts provided herein, up to

$10,000,000 shall be available from amounts available under section 241 of the Public Health Service Act, for State-level data collection activities by the National Household Survey on Drug Abuse: *Provided further,* That notwithstanding any other provision of law, each State's allotment for fiscal year 1998 for each of the programs under subparts I and II of part B of title XIX of the Public Health Service Act shall be equal to such State's allotment for such programs for fiscal year 1997.

RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS

For retirement pay and medical benefits of Public Health Service Commissioned Officers as authorized by law, and for payments under the Retired Serviceman's Family Protection Plan and Survivor Benefit Plan and for medical care of dependents and retired personnel under the Dependents' Medical Care Act (10 U.S.C. ch. 55), and for payments pursuant to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), such amounts as may be required during the current fiscal year.

AGENCY FOR HEALTH CARE POLICY AND RESEARCH

HEALTH CARE POLICY AND RESEARCH

For carrying out titles III and IX of the Public Health Service Act, and part A of title XI of the Social Security Act, $77,587,000; in addition, amounts received from Freedom of Information Act fees, reimbursable and interagency agreements, and the sale of data tapes shall be credited to this appropriation and shall remain available until expended: *Provided,* That the amount made available pursuant to section 926(b) of the Public Health Service Act shall not exceed $65,000,000.

HEALTH CARE FINANCING ADMINISTRATION

GRANTS TO STATES FOR MEDICAID

For carrying out, except as otherwise provided, titles XI and XIX of the Social Security Act, $71,602,429,000, to remain available until expended.

For making, after May 31, 1998, payments to States under title XIX of the Social Security Act for the last quarter of fiscal year 1998 for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States under title XIX of the Social Security Act for the first quarter of fiscal year 1999, $27,800,689,000, to remain available until expended.

Payment under title XIX may be made for any quarter with respect to a State plan or plan amendment in effect during such quarter, if submitted in or prior to such quarter and approved in that or any subsequent quarter.

PAYMENTS TO HEALTH CARE TRUST FUNDS

For payment to the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as provided under sections 217(g) and 1844 of the Social Security Act, sections 103(c) and 111(d) of the Social Security Amendments of 1965, section 278(d) of Public Law 97–248, and for administrative expenses incurred pursuant to section 201(g) of the Social Security Act, $63,581,000,000.

PROGRAM MANAGEMENT

For carrying out, except as otherwise provided, titles XI, XVIII, and XIX of the Social Security Act, titles XIII and XXVII of the Public Health Service Act, the Clinical Laboratory Improvement Amendments of 1988, and section 191 of Public Law 104–191, not to exceed $1,719,241,000 to be transferred from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as authorized by section 201(g) of the Social Security Act; together with all funds collected in accordance with section 353 of the Public Health Service Act, the latter funds to remain available until expended, together with such sums as may be collected from authorized user fees and the sale of data, which shall remain available until expended, and together with administrative fees collected relative to medicare overpayment recovery activities, which shall remain available until expended: *Provided,* That all funds derived in accordance with 31 U.S.C. 9701 from organizations established under title XIII of the Public Health Service Act are to be credited to and available for carrying out the purposes of this appropriation: *Provided further,* That $900,000 shall be for carrying out section 4021 of Public Law 105–33: *Provided further,* That in carrying out its legislative mandate, the National Bipartisan Commission on the Future of Medicare shall examine the role increased investments in health research can play in reducing future Medicare costs, and the potential for coordinating Medicare with cost-effective long-term care services: *Provided further,* That $54,100,000 appropriated under this heading for the development of, transition to, and implementation of the Medicare Transaction System shall remain available until expended: *Provided further,* That $2,000,000 of the amount available for research, demonstration, and evaluation activities shall be available for carrying out demonstration projects on Medicaid coverage of community-based attendant care services for people with disabilities which ensures maximum control by the consumer to select and manage their attendant care services: *Provided further,* That no less than $50,000,000 appropriated under this heading in fiscal year 1997 shall be obligated in fiscal year 1997 to increase medicare provider audits and implement the Department's corrective action plan to the Chief Financial Officer's audit of the Health Care Financing Administration's oversight of medicare.

HEALTH MAINTENANCE ORGANIZATION LOAN AND LOAN GUARANTEE FUND

For carrying out subsections (d) and (e) of section 1308 of the Public Health Service Act, any amounts received by the Secretary in connection with loans and loan guarantees under title XIII of the Public Health Service Act, to be available without fiscal year limitation for the payment of outstanding obligations. During fiscal year 1998, no commitments for direct loans or loan guarantees shall be made.

ADMINISTRATION FOR CHILDREN AND FAMILIES

FAMILY SUPPORT PAYMENTS TO STATES

For making payments to each State for carrying out the program of Aid to Families with Dependent Children under title IV–A of the Social Security Act before the effective date of the program of Temporary Assistance to Needy Families (TANF) with respect to such State, such sums as may be necessary: *Provided,* That the sum of the amounts available to a State with respect to expenditures under such title IV–A in fiscal year 1997 under this appropriation and under such title IV–A as amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 shall not exceed the limitations under section 116(b) of such Act: *Provided further,* That, notwithstanding section 418(a) of the Social Security Act, for fiscal year 1997 only, the amount of payment under section 418(a)(1) to which each State is entitled shall equal the amount specified as mandatory funds with respect to such State for such fiscal year in the table transmitted by the Administration for Children and Families to State Child Care and Development Block Grant Lead Agencies on August 27, 1996, and the amount of State expenditures in fiscal year 1994 or 1995 (whichever is greater) that equals the non-Federal share for the programs described in section 418(a)(1)(A) shall be deemed to equal the amount specified as maintenance of effort with respect to such State for fiscal year 1997 in such table.

For making, after May 31 of the current fiscal year, payments to States or other non-Federal entities under titles I, IV–D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C. ch. 9), for the last three months of the current year for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States or other non-Federal entities under titles I, IV–D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C. ch. 9), for the first quarter of fiscal year 1999, $660,000,000, to remain available until expended.

LOW INCOME HOME ENERGY ASSISTANCE

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981, $1,200,000,000, to be available for obligation in the period October 1, 1998 through September 30, 1999.

For making payments under title XXVI of such Act, $300,000,000: *Provided,* That these funds are hereby designated by Congress to be emergency requirements pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further,* That these funds shall be made available only after submission to Congress of a formal budget request by the President that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act.

REFUGEE AND ENTRANT ASSISTANCE

For making payments for refugee and entrant assistance activities authorized by title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96–422), $392,332,000: *Provided,* That funds appropriated pursuant to section 414(a) of the Immigration and Nationality Act under Public Law 104–134 for fiscal year 1996 shall be available for the costs of assistance provided and other activities conducted in such year and in fiscal years 1997 and 1998.

CHILD CARE AND DEVELOPMENT BLOCK GRANT

For carrying out sections 658A through 658R of the Omnibus Budget Reconciliation Act of 1981 (The Child Care and Development Block Grant Act of 1990), in addition to amounts already appropriated for fiscal year 1998, $26,120,000; and to become available on October 1, 1998 and remain available through September 30, 1999, $1,000,000,000: *Provided,* That of funds appropriated for each of fiscal years 1998 and 1999, $19,120,000 shall be available for child care resource and referral and school-aged child care activities, of which for fiscal year 1998 $6,120,000 shall be derived from an amount that shall be transferred from the amount appropriated under section 452(j) of the Social Security Act (42 U.S.C. 652(j)) for fiscal year 1997 and remaining available for expenditure.

SOCIAL SERVICES BLOCK GRANT

For making grants to States pursuant to section 2002 of the Social Security Act, $2,245,000,000: *Provided,* That notwithstanding section 2003(c) of such Act, as amended, the amount specified for allocation under such section for fiscal year 1998 shall be $2,245,000,000.

CHILDREN AND FAMILIES SERVICES PROGRAMS

(INCLUDING RESCISSIONS)

For carrying out, except as otherwise provided, the Runaway and Homeless Youth

Act, the Developmental Disabilities Assistance and Bill of Rights Act, the Head Start Act, the Child Abuse Prevention and Treatment Act, (including section 105(a)(2) of the Child Abuse Prevention and Treatment Act), the Native American Programs Act of 1974, title II of Public Law 95–266 (adoption opportunities), the Abandoned Infants Assistance Act of 1988, part B(1) of title IV and sections 413, 429A and 1110 of the Social Security Act; for making payments under the Community Services Block Grant Act; and for necessary administrative expenses to carry out said Acts and titles I, IV, X, XI, XIV, XVI, and XX of the Social Security Act, the Act of July 5, 1960 (24 U.S.C. ch. 9), the Omnibus Budget Reconciliation Act of 1981, title IV of the Immigration and Nationality Act, section 501 of the Refugee Education Assistance Act of 1980, and section 126 and titles IV and V of Public Law 100–485, $5,611,094,000, of which $539,432,000 shall be for making payments under the Community Services Block Grant Act: *Provided*, That to the extent Community Services Block Grant funds are distributed as grant funds by a State to an eligible entity as provided under the Act, and have not been expended by such entity, they shall remain with such entity for carryover into the next fiscal year for expenditure by such entity consistent with program purposes: *Provided further*, That notwithstanding any other provision of law, 10 percent of any additional funds for Head Start over the fiscal year 1997 appropriation shall be made available for Early Head Start programs.

In addition, $93,000,000, to be derived from the Violent Crime Reduction Trust Fund, for carrying out sections 40155, 40211 and 40241 of Public Law 103–322.

Funds appropriated for fiscal year 1998 under section 429A(e), part B of title IV of the Social Security Act shall be reduced by $6,000,000.

Funds appropriated for fiscal year 1998 under section 413(h)(1) of the Social Security Act shall be reduced by $15,000,000.

FAMILY PRESERVATION AND SUPPORT

For carrying out section 430 of the Social Security Act, $255,000,000.

PAYMENTS TO STATES FOR FOSTER CARE AND ADOPTION ASSISTANCE

For making payments to States or other non-Federal entities, under title IV–E of the Social Security Act, $3,200,000,000.

For making payments to States or other non-Federal entities, under title IV–E of the Social Security Act, for the first quarter of fiscal year 1999, $1,157,500,000.

ADMINISTRATION ON AGING

AGING SERVICES PROGRAMS

For carrying out, to the extent not otherwise provided, the Older Americans Act of 1965, as amended, $894,074,000: *Provided*, That notwithstanding section 308(b)(1) of such Act, the amounts available to each State for administration of the State plan under title III of such Act shall be reduced not more than 5 percent below the amount that was available to such State for such purpose for fiscal year 1995: *Provided further*, That of the funds appropriated to carry out section 303(a)(1) of such Act, $4,449,000 shall be available for carrying out section 702(a) of such Act and $4,732,000 shall be available for carrying out section 702(c) of such Act: *Provided further*, That in considering grant applications for nutrition services for elder Indian recipients, the Assistant Secretary shall provide maximum flexibility to applicants who seek to take into account subsistence, local customs, and other characteristics that are appropriate to the unique cultural, regional, and geographic needs of the American Indian, Alaskan and Hawaiian native communities to be served.

OFFICE OF THE SECRETARY

GENERAL DEPARTMENTAL MANAGEMENT

For necessary expenses, not otherwise provided, for general departmental management, including hire of six sedans, and for carrying out titles III, XVII, and XX of the Public Health Service Act, the United States-Mexico Border Health Commission Act, and research studies under section 1110 of the Socal Security Act, $174,588,000, together with $5,851,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Hospital Insurance Trust Fund and the Supplemental Medical Insurance Trust Fund.

OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $31,921,000.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, $16,345,000, together with not to exceed $3,314,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Hospital Insurance Trust Fund and the Supplemental Medical Insurance Trust Fund.

POLICY RESEARCH

For carrying out, to the extent not otherwise provided, research studies under section 1110 of the Social Security Act, $9,500,000.

GENERAL PROVISIONS

SEC. 201. Funds appropriated in this title shall be available for not to exceed $37,000 for official reception and representation expenses when specifically approved by the Secretary.

SEC. 202. The Secretary shall make available through assignment not more than 60 employees of the Public Health Service to assist in child survival activities and to work in AIDS programs through and with funds provided by the Agency for International Development, the United Nations International Children's Emergency Fund or the World Health Organization.

SEC. 203. None of the funds appropriated under this Act may be used to implement section 399L(b) of the Public Health Service Act or section 1503 of the National Institutes of Health Revitalization Act of 1993, Public Law 103–43.

SEC. 204. None of the funds appropriated in this Act for the National Institutes of Health and the Substance Abuse and Mental Health Services Administration shall be used to pay the salary of an individual, through a grant or other extramural mechanism, at a rate in excess of $125,000 per year.

SEC. 205. None of the funds appropriated in this Act may be expended pursuant to section 241 of the Public Health Service Act, except for funds specifically provided for in this Act, or for other taps and assessments made by any office located in the Department of Health and Human Services, prior to the Secretary's preparation and submission of a report to the Committee on Appropriations of the Senate and of the House detailing the planned uses of such funds.

SEC. 206. None of the funds appropriated in this Act may be obligated or expended for the Federal Council on Aging under the Older Americans Act or the Advisory Board on Child Abuse and Neglect under the Child Abuse Prevention and Treatment Act.

(TRANSFER OF FUNDS)

SEC. 207. Not to exceed 1 percent of any discretionary funds (pursuant to the Balanced Budget and Emergency Deficit Control Act, as amended) which are appropriated for the current fiscal year for the Department of Health and Human Services in this Act may be transferred between appropriations, but no such appropriation shall be increased by more than 3 percent by any such transfer: *Provided*, That the Appropriations Committees of both Houses of Congress are notified at least fifteen days in advance of any transfer.

(TRANSFER OF FUNDS)

SEC. 208. The Director of the National Institutes of Health, jointly with the Director of the Office of AIDS Research, may transfer up to 3 percent among institutes, centers, and divisions from the total amounts identified by these two Directors as funding for research pertaining to the human immunodeficiency virus: *Provided*, That the Congress is promptly notified of the transfer.

(TRANSFER OF FUNDS)

SEC. 209. Of the amounts made available in this Act for the National Institutes of Health, the amount for research related to the human immunodeficiency virus, as jointly determined by the Director of NIH and the Director of the Office of AIDS Research, shall be made available to the ''Office of AIDS Research'' account. The Director of the Office of AIDS Research shall transfer from such account amounts necessary to carry out section 2353(d)(3) of the Public Health Service Act.

SEC. 210. Funds appropriated in this Act for the National Institutes of Health may be used to provide transit subsidies in amounts consistent with the transportation subsidy programs authorized under section 629 of Public Law 101–509 to non-FTE bearing positions including trainees, visiting fellows and volunteers.

COMPREHENSIVE INDEPENDENT STUDY OF NIH RESEARCH PRIORITY SETTING

SEC. 211. (a) STUDY BY THE INSTITUTE OF MEDICINE.—Not later than 30 days after the date of enactment of this Act, the Secretary of Health and Human Services shall enter into a contract with the Institute of Medicine to conduct a comprehensive study of the policies and process used by the National Institutes of Health to determine funding allocations for biomedical research.

(b) MATTERS TO BE ASSESSED.—The study under subsection (a) shall assess—

(1) the factors or criteria used by the National Institutes of Health to determine funding allocations for disease research;

(2) the process by which research funding decisions are made;

(3) the mechanisms for public input into the priority setting process; and

(4) the impact of statutory directives on research funding decisions.

(c) REPORT.—

(1) IN GENERAL.—Not later than 6 months after the date on which the Secretary of Health and Human Services enters into the contract under subsection (a), the Institute of Medicine shall submit a report concerning the study to the Committee on Labor and Human Resources and the Committee on Appropriations of the Senate, and the Committee on Commerce and the Committee on Appropriations of the House of Representatives.

(2) REQUIREMENT.—The report under paragraph (1) shall set forth the findings, conclusions, and recommendations of the Institute of Medicine for improvements in the National Institutes of Health research funding policies and processes and for any necessary congressional action.

(d) FUNDING.—Of the amount appropriated in this title for the National Institutes of Health, $300,000 shall be made available for the study and report under this section.

PARKINSON'S DISEASE RESEARCH.

SEC. 212. (a) SHORT TITLE.—This section may be cited as the ''Morris K. Udall Parkinson's Research Act of 1997''.

(b) FINDING AND PURPOSE.—

(1) FINDING.—Congress finds that to take full advantage of the tremendous potential for finding a cure or effective treatment, the Federal investment in Parkinson's must be expanded, as well as the coordination strengthened among the National Institutes of Health research institutes.

(2) PURPOSE.—It is the purpose of this section to provide for the expansion and coordination of research regarding Parkinson's, and to improve care and assistance for afflicted individuals and their family caregivers.

(c) PARKINSON'S RESEARCH.—Part B of title IV of the Public Health Service Act (42 U.S.C. 284 et seq.) is amended by adding at the end the following:

''PARKINSON'S DISEASE

''SEC. 409B. (a) IN GENERAL.—The Director of NIH shall establish a program for the conduct and support of research and training with respect to Parkinson's disease (subject to the extent of amounts appropriated under subsection (e)).

''(b) INTER-INSTITUTE COORDINATION.—

''(1) IN GENERAL.—The Director of NIH shall provide for the coordination of the program established under subsection (a) among all of the national research institutes conducting Parkinson's research.

''(2) CONFERENCE.—Coordination under paragraph (1) shall include the convening of a research planning conference not less frequently than once every 2 years. Each such conference shall prepare and submit to the Committee on Appropriations and the Committee on Labor and Human Resources of the Senate and the Committee on Appropriations and the Committee on Commerce of the House of Representatives a report concerning the conference.

''(c) MORRIS K. UDALL RESEARCH CENTERS.—

''(1) IN GENERAL.—The Director of NIH shall award Core Center Grants to encourage the development of innovative multidisciplinary research and provide training concerning Parkinson's. The Director shall award not more than 10 Core Center Grants and designate each center funded under such grants as a Morris K. Udall Center for Research on Parkinson's Disease.

''(2) REQUIREMENTS.—

''(A) IN GENERAL.—With respect to Parkinson's, each center assisted under this subsection shall—

''(i) use the facilities of a single institution or a consortium of cooperating institutions, and meet such qualifications as may be prescribed by the Director of the NIH; and

''(ii) conduct basic and clinical research.

''(B) DISCRETIONARY REQUIREMENTS.—With respect to Parkinson's, each center assisted under this subsection may—

''(i) conduct training programs for scientists and health professionals;

''(ii) conduct programs to provide information and continuing education to health professionals;

''(iii) conduct programs for the dissemination of information to the public;

''(iv) separately or in collaboration with other centers, establish a nationwide data system derived from patient populations with Parkinson's, and where possible, comparing relevant data involving general populations;

''(v) separately or in collaboration with other centers, establish a Parkinson's Disease Information Clearinghouse to facilitate and enhance knowledge and understanding of Parkinson's disease; and

''(vi) separately or in collaboration with other centers, establish a national education program that fosters a national focus on Parkinson's and the care of those with Parkinson's.

''(3) STIPENDS REGARDING TRAINING PROGRAMS.—A center may use funds provided under paragraph (1) to provide stipends for scientists and health professionals enrolled in training programs under paragraph (2)(B).

''(4) DURATION OF SUPPORT.—Support of a center under this subsection may be for a period not exceeding five years. Such period may be extended by the Director of NIH for one or more additional periods of not more than five years if the operations of such center have been reviewed by an appropriate technical and scientific peer review group established by the Director and if such group has recommended to the Director that such period should be extended.

''(d) MORRIS K. UDALL AWARDS FOR EXCELLENCE IN PARKINSON'S DISEASE RESEARCH.—The Director of NIH shall establish a grant program to support investigators with a proven record of excellence and innovation in Parkinson's research and who demonstrate potential for significant future breakthroughs in the understanding of the pathogensis, diagnosis, and treatment of Parkinson's. Grants under this subsection shall be available for a period of not to exceed 5 years.

''(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section and section 301 and title IV of the Public Health Service Act with respect to direct Parkinson's disease research, there are authorized to be appropriated a total of $100,000,000 for fiscal year 1998, and such sums as may be necessary for each of the fiscal years 1999 and 2000.''.

COMPREHENSIVE FETAL ALCOHOL SYNDROME PREVENTION

SEC. 213. (a) SHORT TITLE.—This section may be cited as the ''Comprehensive Fetal Alcohol Syndrome Prevention Act''.

(b) FINDINGS.—Congress finds that—

(1) Fetal Alcohol Syndrome is the leading known cause of mental retardation, and it is 100 percent preventable;

(2) each year, up to 12,000 infants are born in the United States with Fetal Alcohol Syndrome, suffering irreversible physical and mental damage;

(3) thousands more infants are born each year with Fetal Alcohol Effects, which are lesser, though still serious, alcohol-related birth defects;

(4) children of women who use alcohol while pregnant have a significantly higher infant mortality rate (13.3 per 1000) than children of those women who do not use alcohol (8.6 per 1000);

(5) Fetal Alcohol Syndrome and Fetal Alcohol Effects are national problems which can impact any child, family, or community, but their threat to American Indians and Alaska Natives is especially alarming;

(6) in some American Indian communities, where alcohol dependency rates reach 50 percent and above, the chances of a newborn suffering Fetal Alcohol Syndrome or Fetal Alcohol Effects are up to 30 times greater than national averages;

(7) in addition to the immeasurable toll on children and their families, Fetal Alcohol Syndrome and Fetal Alcohol Effects pose extraordinary financial costs to the Nation, including the costs of health care, education, foster care, job training, and general support services for affected individuals;

(8) the total cost to the economy of Fetal Alcohol Syndrome was approximately $2,700,000,000 in 1995, and over a lifetime, health care costs for one Fetal Alcohol Syndrome child are estimated to be at least $1,400,000;

(9) researchers have determined that the possibility of giving birth to a baby with Fetal Alcohol Syndrome or Fetal Alcohol Effects increases in proportion to the amount and frequency of alcohol consumed by a pregnant woman, and that stopping alcohol consumption at any point in the pregnancy reduces the emotional, physical, and mental consequences of alcohol exposure to the baby; and

(10) though approximately 1 out of every 5 pregnant women drink alcohol during their pregnancy, we know of no safe dose of alcohol during pregnancy, or of any safe time to drink during pregnancy, thus, it is in the best interest of the Nation for the Federal Government to take an active role in encouraging all women to abstain from alcohol consumption during pregnancy.

(c) PURPOSE.—It is the purpose of this section to establish, within the Department of Health and Human Services, a comprehensive program to help prevent Fetal Alcohol Syndrome and Fetal Alcohol Effects nationwide. Such program shall—

(1) coordinate, support, and conduct basic and applied epidemiologic research concerning Fetal Alcohol Syndrome and Fetal Alcohol Effects;

(2) coordinate, support, and conduct national, State, and community-based public awareness, prevention, and education programs on Fetal Alcohol Syndrome and Fetal Alcohol Effects; and

(3) foster coordination among all Federal agencies that conduct or support Fetal Alcohol Syndrome and Fetal Alcohol Effects research, programs, and surveillance and otherwise meet the general needs of populations actually or potentially impacted by Fetal Alcohol Syndrome and Fetal Alcohol Effects.

(d) ESTABLISHMENT OF PROGRAM.—Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by adding at the end the following:

''PART O—FETAL ALCOHOL SYNDROME PREVENTION PROGRAM

''SEC. 399G. ESTABLISHMENT OF FETAL ALCOHOL SYNDROME PREVENTION PROGRAM.

''(a) FETAL ALCOHOL SYNDROME PREVENTION PROGRAM.—The Secretary shall establish a comprehensive Fetal Alcohol Syndrome and Fetal Alcohol Effects prevention program that shall include—

''(1) an education and public awareness program to—

''(A) support, conduct, and evaluate the effectiveness of—

''(i) training programs concerning the prevention, diagnosis, and treatment of Fetal Alcohol Syndrome and Fetal Alcohol Effects;

''(ii) prevention and education programs, including school health education and school-based clinic programs for school-age children, concerning Fetal Alcohol Syndrome and Fetal Alcohol Effects; and

''(iii) public and community awareness programs concerning Fetal Alcohol Syndrome and Fetal Alcohol Effects;

''(B) provide technical and consultative assistance to States, Indian tribal governments, local governments, scientific and academic institutions, and nonprofit organizations concerning the programs referred to in subparagraph (A); and

''(C) award grants to, and enter into cooperative agreements and contracts with, States, Indian tribal governments, local governments, scientific and academic institutions, and nonprofit organizations for the purpose of—

''(i) evaluating the effectiveness, with particular emphasis on the cultural competency and age-appropriateness, of programs referred to in subparagraph (A);

''(ii) providing training in the prevention, diagnosis, and treatment of Fetal Alcohol Syndrome and Fetal Alcohol Effects;

''(iii) educating school-age children, including pregnant and high-risk youth, concerning Fetal Alcohol Syndrome and Fetal

Alcohol Effects, with priority given to programs that are part of a sequential, comprehensive school health education program; and

''(iv) increasing public and community awareness concerning Fetal Alcohol Syndrome and Fetal Alcohol Effects through culturally competent projects, programs, and campaigns, and improving the understanding of the general public and targeted groups concerning the most effective intervention methods to prevent fetal exposure to alcohol;

''(2) an applied epidemiologic research and prevention program to—

''(A) support and conduct research on the causes, mechanisms, diagnostic methods, treatment, and prevention of Fetal Alcohol Syndrome and Fetal Alcohol Effects;

''(B) provide technical and consultative assistance and training to States, Tribal governments, local governments, scientific and academic institutions, and nonprofit organizations engaged in the conduct of—

''(i) Fetal Alcohol Syndrome prevention and early intervention programs; and

''(ii) research relating to the causes, mechanisms, diagnosis methods, treatment, and prevention of Fetal Alcohol Syndrome and Fetal Alcohol Effects; and

''(C) award grants to, and enter into cooperative agreements and contracts with, States, Indian tribal governments, local governments, scientific and academic institutions, and nonprofit organizations for the purpose of—

''(i) conducting innovative demonstration and evaluation projects designed to determine effective strategies, including community-based prevention programs and multicultural education campaigns, for preventing and intervening in fetal exposure to alcohol;

''(ii) improving and coordinating the surveillance and ongoing assessment methods implemented by such entities and the Federal Government with respect to Fetal Alcohol Syndrome and Fetal Alcohol Effects;

''(iii) developing and evaluating effective age-appropriate and culturally competent prevention programs for children, adolescents, and adults identified as being at-risk of becoming chemically dependent on alcohol and associated with or developing Fetal Alcohol Syndrome and Fetal Alcohol Effects; and

''(iv) facilitating coordination and collaboration among Federal, State, local government, Indian tribal, and community-based Fetal Alcohol Syndrome prevention programs;

''(3) a basic research program to support and conduct basic research on services and effective prevention treatments and interventions for pregnant alcohol-dependent women and individuals with Fetal Alcohol Syndrome and Fetal Alcohol Effects;

''(4) a procedure for disseminating the Fetal Alcohol Syndrome and Fetal Alcohol Effects diagnostic criteria developed pursuant to section 705 of the ADAMHA Reorganization Act (42 U.S.C. 485n note) to health care providers, educators, social workers, child welfare workers, and other individuals; and

''(5) the establishment, in accordance with subsection (b), of an inter-agency task force on Fetal Alcohol Syndrome and Fetal Alcohol Effects to foster coordination among all Federal agencies that conduct or support Fetal Alcohol Syndrome and Fetal Alcohol Effects research, programs, and surveillance, and otherwise meet the general needs of populations actually or potentially impacted by Fetal Alcohol Syndrome and Fetal Alcohol Effects.

''(b) INTER-AGENCY TASK FORCE.—

''(1) MEMBERSHIP.—The Task Force established pursuant to paragraph (5) of subsection (a) shall—

''(A) be chaired by the Secretary or a designee of the Secretary; and

''(B) include representatives from all relevant agencies within the Department of Health and Human Services, including the Centers for Disease Control and Prevention, the National Institutes of Health, the Health Resources and Services Administration, the Substance Abuse and Mental Health Services Administration, and any other relevant agencies of the Department of Health and Human Services.

''(2) FUNCTIONS.—The Task Force shall—

''(A) coordinate all relevant programs and research concerning Fetal Alcohol Syndrome and Fetal Alcohol Effects, including programs that—

''(i) target individuals, families, and populations identified as being at risk of acquiring Fetal Alcohol Syndrome and Fetal Alcohol Effects; and

''(ii) provide health, education, treatment, and social services to infants, children, and adults with Fetal Alcohol Syndrome and Fetal Alcohol Effects;

''(B) coordinate its efforts with existing Department of Health and Human Services task forces on substance abuse prevention and maternal and child health; and

''(C) report on a biennial basis to the Secretary and relevant committees of Congress on the current and planned activities of the participating agencies, including a proposal for a Federal Interagency Task Force to include representatives from all relevant agencies and offices within the Department of Health and Human Services, the Department of Agriculture, the Department of Education, the Department of Defense, the Department of the Interior, the Department of Justice, the Department of Veterans Affairs, the Bureau of Alcohol, Tobacco and Firearms, the Federal Trade Commission, and any other relevant Federal agency.

''(c) SCIENTIFIC RESEARCH AND TRAINING.—The Director of the National Institute on Alcohol Abuse and Alcoholism, with the cooperation of members of the interagency task force established under subsection (b), shall establish a collaborative program to provide for the conduct and support of research, training, and dissemination of information to researchers, clinicians, health professionals and the public, with respect to the cause, prevention, diagnosis, and treatment of Fetal Alcohol Syndrome and the related condition know as Fetal Alcohol Effects.

''SEC. 399H. ELIGIBILITY.

''To be eligible to receive a grant, or enter into a cooperative agreement or contract under this part, an entity shall—

''(1) be a State, Indian tribal government, local government, scientific or academic institution, or nonprofit organization; and

''(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may prescribe, including a description of the activities that the entity intends to carry out using amounts received under this part.

''SEC. 399I. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this part, such sums as are necessary for each of the fiscal years 1998 through 2002.''.

SEC. 214. (a) That section 414(a) of the Immigration and Nationality Act (8 U.S.C. 1524(a)) is amended by striking ''fiscal year 1995, fiscal year 1996, and fiscal year 1997'' and inserting ''each of fiscal years 1998 and 1999''.

(b) The amendment made by subsection (a) shall take effect October 1, 1997.

SEC. 215. (a) STUDY.—From amounts appropriated under this title, the Secretary should conduct a study on the health effects of perchlorate on humans with particular emphasis on the health risks to vulnerable subpopulations including pregnant women, children, and the elderly.

(b) REPORT.—Not later than 9 months after the date of enactment of this Act, and annually thereafter, the National Institutes of Health should prepare and submit to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives, a report concerning the results of the study conducted under subsection (a), including whether further health effects research is necessary.

SEC. 216. Subparagraphs (B) and (C) of section 1143(a)(2) of the Social Security Act (42 U.S.C. 1320b–13(a)(2)(B), (C)) are each amended by striking ''employee'' and inserting ''employer, employee,''.

SEC. 217. (a) Notwithstanding any other provision of law, the payments described in subsection (b) shall not be considered income or resources in determining eligibility for, or the amount of benefits under, a program or State plan under title XVI or XIX of the Social Security Act.

(b) The payments described in this subsection are payments made by the Secretary of Defense pursuant to section 657 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2584).

SEC. 218. (a) STUDY.—Not later than 30 days after the date of enactment of this Act, the Secretary of Health and Human Services, in consultation with the General Accounting Office, shall conduct a comprehensive study concerning efforts to improve organ and tissue procurement at hospitals. Under such study, the Secretary shall survey at least 5 percent of the hospitals who have entered into agreements with an organ procurement organization required under the Public Health Service Act and the hospitals' designated organ procurement organizations to examine—

(1) the differences in protocols for the identification of potential organ and tissue donors;

(2) whether each hospital, and the designated organ procurement organization of the hospital, have a system in place for such identification of donors; and

(3) protocols for outreach to the relatives of potential organ or tissue donors.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report concerning the study conducted under subsection (a), that shall include recommendations on hospital best practices—

(1) that result in the most efficient and comprehensive identification of organ and tissue donors; and

(2) for communicating with the relatives of potential organ and tissue donors.

SEC. 219. (a) FINDINGS.—Congress finds that—

(1) over 53,000 Americans are currently awaiting organ transplants;

(2) in 1996, 3,916 people on the transplant waiting list died because no organs became available for such people;

(3) the number of organ donors has grown slowly over the past several years, even though there is significant unrealized donor potential;

(4) a Gallup survey indicated that 85 percent of the American public supports organ donation, and 69 percent describe themselves as likely to donate their organs upon death;

(5) most potential donors are cared for in hospitals with greater than 350 beds, trauma services, and medical school affiliations;

(6) a recent Harvard study showed that hospitals frequently fail to offer donation services to the families of medically eligible potential organ donors;

(7) staff and administration in large hospitals often are not aware of the current level of donor potential in their institution or the current level of donation effectiveness of the institution;

(8) under titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq; 1396 et seq.), hospitals that participate in the medicare or medicaid program are required to have in place policies to offer eligible families the option of organ and tissue donation; and

(9) many hospitals have not yet incorporated systematic protocols for offering donation to eligible families in a skilled and sensitive way.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that hospitals that have organ or tissue donor potential take prompt steps to ensure that a skilled and sensitive request for organ or tissue donation is provided to eligible families by—

(1) working with the designated organ procurement organization or other suitable agency to assess donor potential and performance in their institutions;

(2) establishing protocols for organ donation that incorporate best-demonstrated practices;

(3) providing education to hospital staff to ensure adequate skills related to organ and tissue donation;

(4) establishing teams of skilled hospital staff to respond to potential organ donor situations, ensure optimal communication with the patient's surviving family, and achieve smooth coordination of activities with the designated organ procurement organization; and

(5) monitoring organ donation effectiveness through quality assurance mechanisms.

PROTECTING VICTIMS OF FAMILY VIOLENCE

SEC. 220. (a) FINDINGS.—Congress finds that—

(1) the intent of Congress in amending part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) in section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat 2112) was to allow States to take into account the effects of the epidemic of domestic violence in establishing their welfare programs, by giving States the flexibility to grant individual, temporary waivers for good cause to victims of domestic violence who meet the criteria set forth in section 402(a)(7)(B) of the Social Security Act (42 U.S.C. 602(a)(7)(B));

(2) the allowance of waivers under such sections was not intended to be limited by other, separate, and independent provisions of part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);

(3) under section 402(a)(7)(A)(iii) of such Act (42 U.S.C. 602(a)(7)(A)(iii)), requirements under the temporary assistance for needy families program under part A of title IV of such Act may, for good cause, be waived for so long as necessary; and

(4) good cause waivers granted pursuant to section 402(a)(7)(A)(iii) of such Act (42 U.S.C. 602(a)(7)(A)(iii)) are intended to be temporary and directed only at particular program requirements when needed on an individual case-by-case basis, and are intended to facilitate the ability of victims of domestic violence to move forward and meet program requirements when safe and feasible without interference by domestic violence.

(b) CLARIFICATION OF WAIVER PROVISIONS.—

(1) IN GENERAL.—Section 402(a)(7) of the Social Security Act (42 U.S.C. 602(a)(7)) is amended by adding at the end the following:

''(C) NO NUMERICAL LIMITS.—In implementing this paragraph, a State shall not be subject to any numerical limitation in the granting of good cause waivers under subparagraph (A)(iii).

''(D) WAIVERED INDIVIDUALS NOT INCLUDED FOR PURPOSES OF CERTAIN OTHER PROVISIONS OF THIS PART.—Any individual to whom a good cause waiver of compliance with this Act has been granted in accordance with subparagraph (A)(iii) shall not be included for purposes of determining a State's compliance with the participation rate requirements set forth in section 407, for purposes of applying the limitation described in section 408(a)(7)(C)(ii), or for purposes of determining whether to impose a penalty under paragraph (3), (5), or (9) of section 409(a).''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) takes effect as if it had been included in the enactment of section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2112).

(c) FEDERAL PARENT LOCATOR SERVICE.—

(1) IN GENERAL.—Section 453 of the Social Security Act (42 U.S.C. 653), as amended by section 5534 of the Balanced Budget Act of 1997 (Public Law 105–33; 111 Stat. 627), is amended—

(A) in subsection (b)(2)—

(i) in the matter preceding subparagraph (A), by inserting ''or that the health, safety, or liberty or a parent or child would by unreasonably put at risk by the disclosure of such information,'' before ''provided that'';

(ii) in subparagraph (A), by inserting '', that the health, safety, or liberty or a parent or child would by unreasonably put at risk by the disclosure of such information,'' before ''and that information''; and

(iii) in subparagraph (B)(i), by striking ''be harmful to the parent or the child'' and inserting ''place the health, safety, or liberty of a parent or child unreasonably at risk''; and

(B) in subsection (c)(2), by inserting '', or to serve as the initiating court in an action to seek and order,'' before ''against a noncustodial''.

(2) STATE PLAN.—Section 454(26) of the Social Security Act (42 U.S.C. 654), as amended by section 5552 of the Balanced Budget Act of 1997 (Public Law 105–33; 111 Stat. 635), is amended—

(A) in subparagraph (C), by striking ''result in physical or emotional harm to the party or the child'' and inserting ''place the health, safety, or liberty of a parent or child unreasonably at risk'';

(B) in subparagraph (D), by striking ''of domestic violence or child abuse against a party or the child and that the disclosure of such information could be harmful to the party or the child'' and inserting ''that the health, safety, or liberty of a parent or child would be unreasonably put at risk by the disclosure of such information''; and

(C) in subparagraph (E), by striking ''of domestic violence'' and all that follows through the semicolon and inserting ''that the health, safety, or liberty of a parent or child would be unreasonably put at risk by the disclosure of such information pursuant to section 453(b)(2), the court shall determine whether disclosure to any other person or persons of information received from the Secretary could place the health, safety, or liberty or a parent or child unreasonably at risk (if the court determines that disclosure to any other person could be harmful, the court and its agents shall not make any such disclosure);''.

(3) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 day after the effective date described in section 5557(a) of the Balanced Budget Act of 1997 (Public Law 105–33).

SEC. 221. (a) TRANSFER.—Using $5,000,000 of the amounts appropriated under this title, the Secretary of Health and Human Services shall carry out activities under subsection (b) to address urgent health threats posed by E. coli:0157H7.

(b) USE OF FUNDS.—From amounts transferred under subsection (a) the Secretary of Health and Human Services shall—

(1) provide $1,000,000 for the development of improved medical treatments for patients infected with E. coli:0157H7-related disease (HUS);

(2) provide $550,000 to fund ongoing research to detect or prevent colonization of E. coli:0157H7 in live cattle;

(3) provide, through the existing partnership between the Federal Government, industry, and consumer groups, $1,000,000 for the National Consumer Education Campaign on Food Safety as part of the activities to address safe food handling practices;

(4) provide $1,000,000 for a study to determine the feasibility of the use of electronic pasteurization on red meats to eliminate pathogens and to carry out activities to educate the public on the safety of that process; and

(5) provide $1,000,000 for a contract to be entered into with the National Academy of Sciences to assess the effectiveness of testing to ensure zero tolerance of E. coli:0157H7 in raw ground beef products.

This title may be cited as the ''Department of Health and Human Services Appropriations Act, 1998''.

TITLE III—DEPARTMENT OF EDUCATION

EDUCATION REFORM

For carrying out activities authorized by titles III and IV of the Goals 2000: Educate America Act, the School-to-Work Opportunities Act, and sections 3132, 3136, and 3141 of the Elementary and Secondary Education Act of 1965, $1,271,000,000, of which $530,000,000 for the Goals 2000: Educate America Act and $200,000,000 for the School-to-Work Opportunities Act shall become available on July 1, 1998, and remain available through September 30, 1999: *Provided*, That none of the funds appropriated under this heading shall be obligated or expended to carry out section 304(a)(2)(A) of the Goals 2000: Educate America Act, except that no more than $1,500,000 may be used to carry out activities under section 314(a)(2) of that Act: *Provided further*, That section 315(a)(2) of the Goals 2000 Act shall not apply: *Provided further*, That up to one-half of one percent of the amount available under section 3132 shall be set aside for the outlying areas, to be distributed on the basis of their relative need as determined by the Secretary in accordance with the purposes of the program: *Provided further*, That if any State educational agency does not apply for a grant under section 3132, that State's allotment under section 3131 shall be reserved by the Secretary for grants to local educational agencies in that State that apply directly to the Secretary according to the terms and conditions published by the Secretary in the Federal Register.

EDUCATION FOR THE DISADVANTAGED

For carrying out title I of the Elementary and Secondary Education Act of 1965, and section 418A of the Higher Education Act, $7,807,349,000, of which $6,488,271,000 shall become available on July 1, 1998, and shall remain available through September 30, 1999, and of which $1,298,386,000 shall become available on October 1, 1998 and shall remain available through September 30, 1999, for academic year 1998–1999: *Provided*, That $6,273,712,000 shall be available for basic grants under section 1124: *Provided further*, That up to $4,000,000 of these funds shall be available to the Secretary on October 1, 1997,

to obtain updated local-educational-agency-level census poverty data from the Bureau of the Census: *Provided further,* That $1,022,020,000 shall be available for concentration grants under section 1124A, $6,977,000 shall be available for evaluations under section 1501 and not more than $7,500,000 shall be reserved for section 1308, of which not more than $3,000,000 shall be reserved for section 1308(d): *Provided further,* That grant awards under section 1124 and 1124(A) of title I of the Elementary and Secondary Education Act shall be made to each State or local educational agency at no less than 100 percent of the amount such State or local educational agency received under this authority for fiscal year 1997 under Public Laws 104–208 and 105–18: *Provided further,* That in determining State allocations under any other program administered by the Secretary, amounts provided under Public Law 105–18, or equivalent amounts provided for in this bill, will not be taken into account in determining State allocations.

IMPACT AID

For carrying out programs of financial assistance to federally affected schools authorized by title VIII of the Elementary and Secondary Education Act of 1965, $794,500,000, of which $623,500,000 shall be for basic support payments under section 8003(b), $80,000,000 shall be for payments for children with disabilities under section 8003(d), $52,000,000, to remain available until expended, shall be for payments under section 8003(f), $5,000,000 shall be for construction under section 8007, and $24,000,000 shall be for Federal property payments under section 8002 and $10,000,000, to remain available until expended, shall be for facilities maintenance under section 8008.

SCHOOL IMPROVEMENT PROGRAMS

For carrying out school improvement activities authorized by titles II, IV–A–1 and 2, V–A and B, VI, IX, X, XII and XIII of the Elementary and Secondary Education Act of 1965; the Stewart B. McKinney Homeless Assistance Act; and the Civil Rights Act of 1964; $1,482,293,000, of which $1,206,278,000 shall become available on July 1, 1998, and remain available through September 30, 1999: *Provided,* That of the amount appropriated, $310,000,000 shall be for Eisenhower professional development State grants under title II–B of the Elementary and Secondary Education Act, $310,000,000 shall be for innovative education program strategies State grants under title VI–A of said Act and $750,000 shall be for an evaluation of comprehensive regional assistance centers under title XIII of said Act: *Provided further,* That—

(1) of the amount appropriated under this heading and notwithstanding any other provision of law, the Secretary of Education may award $1,000,000 to a State educational agency (as defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801)) to pay for appraisals, resource studies, and other expenses associated with the exchange of State school trust lands within the boundaries of a national monument for Federal lands outside the boundaries of the monument; and

(2) the State educational agency is eligible to receive a grant under paragraph (1) only if the agency serves a State that—

(A) has a national monument declared within the State under the authority of the Act entitled ''An Act for the preservation of American antiquities'', approved June 8, 1906 (16 U.S.C. 431 et seq.) (commonly known as the Antiquities Act of 1906) that incorporates more than 100,000 acres of State school trust lands within the boundaries of the national monument; and

(B) ranks in the lowest 25 percent of all States when comparing the average per pupil expenditure (as defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801)) in the State to the average per pupil expenditure for each State in the United States.

INDIAN EDUCATION

For expenses necessary to carry out, to the extent not otherwise provided, title IX, part A of the Elementary and Secondary Education Act of 1965, as amended, and section 215 of the Department of Education Organization Act, $62,600,000.

BILINGUAL AND IMMIGRANT EDUCATION

For carrying out, to the extent not otherwise provided, bilingual, foreign language and immigrant education activities authorized by parts A and C and section 7203 of title VII of the Elementary and Secondary Education Act, without regard to section 7103(b), $354,000,000: *Provided,* That State educational agencies may use all, or any part of, their part C allocation for competitive grants to local educational agencies: *Provided further,* That the Department of Education should only support instructional programs which ensure that students completely master English in a timely fashion (a period of three to five years) while meeting rigorous achievement standards in the academic content areas.

SPECIAL EDUCATION

For carrying out the Individuals with Disabilities Education Act, $4,958,073,000, of which $4,713,112,000 shall become available for obligation on July 1, 1998, and shall remain available through September 30, 1999: *Provided,* That $1,500,000 of the funds provided shall be for secton 687(b)(2)(G), and shall remain available until expended.

REHABILITATION SERVICES AND DISABILITY RESEARCH

For carrying out, to the extent not otherwise provided, the Rehabilitation Act of 1973, the Technology-Related Assistance for Individuals with Disabilities Act, and the Helen Keller National Center Act, as amended, $2,591,286,000.

SPECIAL INSTITUTIONS FOR PERSONS WITH DISABILITIES

AMERICAN PRINTING HOUSE FOR THE BLIND

For carrying out the Act of March 3, 1879, as amended (20 U.S.C. 101 et seq.), $7,906,000.

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

For the National Technical Institute for the Deaf under titles I and II of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), $44,141,000: *Provided,* That from the amount available, the Institute may at its discretion use funds for the endowment program as authorized under section 207.

GALLAUDET UNIVERSITY

For the Kendall Demonstration Elementary School, the Model Secondary School for the Deaf, and the partial support of Gallaudet University under titles I and II of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), $81,000,000: *Provided,* That from the amount available, the University may at its discretion use funds for the endowment program as authorized under section 207.

VOCATIONAL AND ADULT EDUCATION

For carrying out, to the extent not otherwise provided, the Carl D. Perkins Vocational and Applied Technology Education Act and the Adult Education Act and the National Literacy Act of 1991, $1,487,698,000, of which $1,484,598,000 shall become available on July 1, 1998 and shall remain available through September 30, 1999; and of which $5,491,000 from amounts available under the Adult Education Act shall be for the National Institute for Literacy under section 384(c) which shall be derived from unobligated Pell Grant funds: *Provided,* That, of the amounts made available for title II of the Carl D. Perkins Vocational and Applied Technology Education Act, $13,497,000 shall be used by the Secretary for national programs under title IV, without regard to section 451: *Provided further,* That the Secretary may reserve up to $4,998,000 under section 313(d) of the Adult Education Act for activities carried out under section 383 of that Act: *Provided further,* That no funds shall be awarded to a State Council under section 112(f) of the Carl D. Perkins Vocational and Applied Technology Education Act, and no State shall be required to operate such a Council.

STUDENT FINANCIAL ASSISTANCE

For carrying out subparts 1, 3, and 4 of part A, part C and part E of title IV of the Higher Education Act of 1965, as amended, $8,556,641,000, which shall remain available through September 30, 1999: *Provided,* That, $35,000,000 shall be available for State Student Incentive grants derived from unobligated balances: *Provided further,* That $60,000,000 shall be for education infrastructure authorized under title XII of the Elementary and Secondary Education Act to be derived from unobligated balances.

The maximum Pell Grant for which a student shall be eligible during award year 1998–1999 shall be $3,000: *Provided,* That notwithstanding section 401(g) of the Act, if the Secretary determines, prior to publication of the payment schedule for such award year, that the amount included within this appropriation for Pell Grant awards in such award year, and any funds available from the fiscal year 1997 appropriation for Pell Grant awards, are insufficient to satisfy fully all such awards for which students are eligible, as calculated under section 401(b) of the Act, the amount paid for each such award shall be reduced by either a fixed or variable percentage, or by a fixed dollar amount, as determined in accordance with a schedule of reductions established by the Secretary for this purpose.

FEDERAL FAMILY EDUCATION LOAN PROGRAM ACCOUNT

For Federal administrative expenses to carry out guaranteed student loans authorized by title IV, part B, of the Higher Education Act, as amended, $46,482,000.

HIGHER EDUCATION

For carrying out, to the extent not otherwise provided, parts A and B of title III, without regard to section 360(a)(1)(B)(ii), titles IV, V, VI, VII, and IX, and part A and subpart 1 of parts B and E of title X and title XI of the Higher Education Act of 1965, as amended, part G of title XV of Public Law 102–325, the Mutual Educational and Cultural Exchange Act of 1961, and Public Law 102–423; $929,752,000, of which $13,700,000 for interest subsidies under title VII of the Higher Education Act shall remain available until expended: *Provided,* That funds available for part D of title IX of the Higher Education Act shall be available to fund new and noncompeting continuation awards for academic year 1998–1999 for fellowships awarded originally under part C of title IX of said Act, under the terms and conditions of part C.

HOWARD UNIVERSITY

For partial support of Howard University (20 U.S.C. 121 et seq.), $198,000,000: *Provided,* That not less than $3,530,000, shall be for a matching endowment grant pursuant to the Howard University Endowment Act (Public Law 98–480) and shall remain available until expended.

COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS PROGRAM

For Federal administrative expenses to carry out activities related to facility loans

entered into under title VII, part C and section 702 of the Higher Education Act, as amended, $698,000.

HISTORICALLY BLACK COLLEGE AND UNIVERSITY CAPITAL FINANCING, PROGRAM ACCOUNT

The total amount of bonds insured pursuant to section 724 of title VII, part B of the Higher Education Act shall not exceed $357,000,000, and the cost, as defined in section 502 of the Congressional Budget Act of 1974, of such bonds shall not exceed zero.

For administrative expenses to carry out the Historically Black College and University Capital Financing Program entered into pursuant to title VII, part B of the Higher Education Act, as amended, $104,000.

EDUCATION RESEARCH, STATISTICS, AND IMPROVEMENT

For carrying out activities authorized by the Educational Research, Development, Dissemination, and Improvement Act of 1994, including part E; the National Education Statistics Act of 1994; section 2102 of title II, and parts B, C, and D of title III, and parts A, B, I, and K and section 10601 of title X, and part C of title XIII of the Elementary and Secondary Education Act of 1965, as amended, and title VI of Public Law 103–227, $362,225,000.

CHILD LITERACY INITIATIVE

For carrying out a child literacy initiative, $260,000,000, which shall become available on October 1, 1998 and shall remain available through September 30, 1999 only if specifically authorized by subsequent legislation enacted by April 1, 1998.

INSTITUTE OF MUSEUM AND LIBRARY SERVICES

For carrying out subtitle B of the Museum and Library Services Act, $146,369,000, of which $15,455,000 shall be for national leadership grants, notwithstanding section 221(a)(1)(B).

DEPARTMENTAL MANAGEMENT

PROGRAM ADMINISTRATION

For carrying out, to the extent not otherwise provided, the Department of Education Organization Act, including rental of conference rooms in the District of Columbia and hire of two passenger motor vehicles, $340,064,000: *Provided,* That $1,100,000 shall be used for the Millennium 2000 project.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, as authorized by section 203 of the Department of Education Organization Act, $57,522,000.

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, as authorized by section 212 of the Department of Education Organization Act, $32,000,000.

GENERAL PROVISIONS

SEC. 301. No funds appropriated in this Act may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.

SEC. 302. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education, to the school offering such special education, in order to comply with title VI of the Civil Rights Act of 1964. For the purpose of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involving the reorganization of the grade structure of schools, the pairing of schools, or the clustering of schools, or any combination of grade restructuring, pairing or clustering. The prohibition described in this section does not include the establishment of magnet schools.

SEC. 303. No funds appropriated under this Act may be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

(TRANSFER OF FUNDS)

SEC. 304. Not to exceed 1 percent of any discretionary funds (pursuant to the Balanced Budget and Emergency Deficit Control Act, as amended) which are appropriated for the Department of Education may be transferred between appropriations, but no such appropriation shall be increased by more than 3 percent by any such transfer: *Provided,* That the Appropriations Committees of both Houses of Congress are notified at least fifteen days in advance of any transfer.

SEC. 305. Of the funds made available under this title, the Secretary of Education shall establish a program to provide training and technical assistance to State educational agencies and local educational agencies (as defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801) in developing, establishing, and implementing procedures and programs designed to protect victims of and witnesses to incidents of elementary school and secondary school violence, including procedures and programs designed to protect witnesses testifying in school disciplinary proceedings.

SEC. 306. Of the funds made available under this title, $450,000 shall be awarded by the Secretary of Education for grants for the establishment, operation, and evaluation of pilot student safety toll-free hotlines to provide elementary school and secondary school students with confidential assistance regarding school crime, violence, drug dealing, and threats to the personal safety of the students.

SEC. 307. The Secretary of Education shall annually provide to the Committee on Labor and Human Resources and the Committee on Appropriations of the Senate and the Committee on Education and the Workforce and the Committee on Appropriations of the House of Representatives a certification that not less than 95 percent of the amount appropriated for a fiscal year for the activities of the Department of Education is being used directly for teachers and students. If the Secretary determines that less than 95 percent of such amount appropriated for a fiscal year is being used directly for teachers and students, the Secretary shall certify the percentage of such amount that is being directly used for teachers and students.

SEC. 308. (a) The Secretary of Education shall conduct a study that examines—

(1) the economic, educational, and societal costs of—

(A) the increase in enrollments of secondary school students during the period 1998 through 2008;

(B) the creation of smaller class sizes for students enrolled in grades 1 through 3; and

(C) the increase in enrollments described in subparagraph (A) in relation to the creation of smaller class sizes described in subparagraph (B); and

(2) the costs to States and local school districts for taking no action with respect to such increase in enrollments and smaller class sizes.

(b) The Secretary of Education shall report to Congress within 9 months of the date of enactment of this Act regarding the results of the study conducted under subsection (a). Such report shall include recommendations regarding what local school districts, States and the Federal Government can do to address the issue of the increase in enrollments of secondary school students and the need for smaller class sizes in grades 1 through 3.

SEC. 309. (a) The Senate finds that—

(1) Federal Pell Grants are a crucial source of college aid for low- and middle-income students;

(2) in addition to the increase in the maximum Federal Pell Grant from $2,700 to $3,000, which will increase aid to more than 3,600,000 low- and middle-income students, our Nation should provide additional funds to help more than 250,000 independent and dependent students obtain crucial aid in order to help the students obtain the education, training, or retraining the students need to obtain good jobs;

(3) our Nation needs to help children learn to read well in fiscal year 1998, as 40 percent of the Nation's young children cannot read at the basic level; and

(4) the Bipartisan Budget Agreement includes a total funding level for fiscal year 1998 of $7,600,000,000 for Federal Pell Grants, and of $260,000,000 for a child literacy initiative.

(b) It is the sense of the Senate that prompt action should be taken by the authorizing committees to—

(1) make the change in the needs analysis for Federal Pell Grants for independent and for dependent students; and

(2) enact legislation and authorize the funds needed to cover the cost of the changes for a $260,000,000 child literacy initiative.

(c) It is the sense of the Senate that the maximum level possible of fiscal year 1998 funding should be achieved in the appropriations conference committee.

This title may be cited as the ''Department of Education Appropriations Act, 1998''.

TITLE IV—RELATED AGENCIES

ARMED FORCES RETIREMENT HOME

For expenses necessary for the Armed Forces Retirement Home to operate and maintain the United States Soldiers' and Airmen's Home and the United States Naval Home, to be paid from funds available in the Armed Forces Retirement Home Trust Fund, $65,452,000, of which $10,000,000 shall remain available until expended for construction and renovation of the physical plants at the United States Soldiers' and Airmen's Home and the United States Naval Home.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

DOMESTIC VOLUNTEER SERVICE PROGRAMS, OPERATING EXPENSES

For expenses necessary for the Corporation for National and Community Service to carry out the provisions of the Domestic Volunteer Service Act of 1973, as amended, $232,604,000.

CORPORATION FOR PUBLIC BROADCASTING

For payment to the Corporation for Public Broadcasting, as authorized by the Communications Act of 1934, an amount which shall be available within limitations specified by that Act, for the fiscal year 2000, $300,000,000: *Provided,* That no funds made available to the Corporation for Public Broadcasting by this Act shall be used to pay for receptions, parties, or similar forms of entertainment for Government officials or employees: *Provided further,* That none of the funds contained in this paragraph shall be available or used to aid or support any program or activity from which any person is excluded, or is denied benefits, or is discriminated against, on the basis of race, color, national origin, religion, or sex.

FEDERAL MEDIATION AND CONCILIATION SERVICE

SALARIES AND EXPENSES

For expenses necessary for the Federal Mediation and Conciliation Service to carry out

the functions vested in it by the Labor Management Relations Act, 1947 (29 U.S.C. 171–180, 182–183), including hire of passenger motor vehicles; and for expenses necessary for the Labor-Management Cooperation Act of 1978 (29 U.S.C. 175a); and for expenses necessary for the Service to carry out the functions vested in it by the Civil Service Reform Act, Public Law 95-454 (5 U.S.C. chapter 71), $33,481,000, including $1,500,000, to remain available through September 30, 1999, for activities authorized by the Labor-Management Cooperation Act of 1978 (29 U.S.C. 175a): *Provided,* That notwithstanding 31 U.S.C. 3302, fees charged, up to full-cost recovery, for special training activities and for arbitration services shall be credited to and merged with this account, and shall remain available until expended: *Provided further,* That fees for arbitration services shall be available only for education, training, and professional development of the agency workforce: *Provided further,* That the Director of the Service is authorized to accept on behalf of the United States gifts of services and real, personal, or other property in the aid of any projects or functions within the Director's jurisdiction.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Federal Mine Safety and Health Review Commission (30 U.S.C. 801 et seq.), $6,060,000.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

SALARIES AND EXPENSES

For necessary expenses for the National Commission on Libraries and Information Science, established by the Act of July 20, 1970 (Public Law 91–345, as amended by Public Law 102–95), $1,000,000.

NATIONAL COUNCIL ON DISABILITY

SALARIES AND EXPENSES

For expenses necessary for the National Council on Disability as authorized by title IV of the Rehabilitation Act of 1973, as amended, $1,793,000.

NATIONAL EDUCATION GOALS PANEL

For expenses necessary for the National Education Goals Panel, as authorized by title II, part A of the Goals 2000: Educate America Act, $2,000,000.

NATIONAL LABOR RELATIONS BOARD

SALARIES AND EXPENSES

For expenses necessary for the National Labor Relations Board to carry out the functions vested in it by the Labor-Management Relations Act, 1947, as amended (29 U.S.C. 141–167), and other laws, $174,661,000: *Provided,* That no part of this appropriation shall be available to organize or assist in organizing agricultural laborers or used in connection with investigations, hearings, directives, or orders concerning bargaining units composed of agricultural laborers as referred to in section 2(3) of the Act of July 5, 1935 (29 U.S.C. 152), and as amended by the Labor-Management Relations Act, 1947, as amended, and as defined in section 3(f) of the Act of June 25, 1938 (29 U.S.C. 203), and including in said definition employees engaged in the maintenance and operation of ditches, canals, reservoirs, and waterways when maintained or operated on a mutual, nonprofit basis and at least 95 per centum of the water stored or supplied thereby is used for farming purposes: *Provided further,* That none of the funds made available by this Act shall be used in any way to promulgate a final rule (altering 29 CFR part 103) regarding single location bargaining units in representation cases.

NATIONAL MEDIATION BOARD

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Railway Labor Act, as amended (45 U.S.C. 151–188), including emergency boards appointed by the President, $8,600,000: Provided, That unobligated balances at the end of fiscal year 1998 not needed for emergency boards shall remain available for other statutory purposes through September 30, 1999.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Occupational Safety and Health Review Commission (29 U.S.C. 661), $7,800,000.

PHYSICIAN PAYMENT REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 1845(a) of the Social Security Act, $3,508,000, to be transferred to this appropriation from the Federal Supplementary Medical Insurance Trust Fund.

PROSPECTIVE PAYMENT ASSESSMENT COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 1886(e) of the Social Security Act, $3,507,000, to be transferred to this appropriation from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds.

RAILROAD RETIREMENT BOARD

DUAL BENEFITS PAYMENTS ACCOUNT

For payment to the Dual Benefits Payments Account, authorized under section 15(d) of the Railroad Retirement Act of 1974, $205,500,000, which shall include amounts becoming available in fiscal year 1998 pursuant to section 224(c)(1)(B) of Public Law 98–76; and in addition, an amount, not to exceed 2 percent of the amount provided herein, shall be available proportional to the amount by which the product of recipients and the average benefit received exceeds $205,500,000: Provided, That the total amount provided herein shall be credited in 12 approximately equal amounts on the first day of each month in the fiscal year.

FEDERAL PAYMENTS TO THE RAILROAD RETIREMENT ACCOUNTS

For payment to the accounts established in the Treasury for the payment of benefits under the Railroad Retirement Act for interest earned on unnegotiated checks, $50,000, to remain available through September 30, 1999, which shall be the maximum amount available for payment pursuant to section 417 of Public Law 98–76.

LIMITATION ON ADMINISTRATION

For necessary expenses for the Railroad Retirement Board for administration of the Railroad Retirement Act and the Railroad Unemployment Insurance Act, $87,728,000, to be derived in such amounts as determined by the Board from the railroad retirement accounts and from moneys credited to the railroad unemployment insurance administration fund.

LIMITATION ON THE OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General for audit, investigatory and review activities, as authorized by the Inspector General Act of 1978, as amended, not more than $5,394,000, to be derived from the railroad retirement accounts and railroad unemployment insurance account.

SOCIAL SECURITY ADMINISTRATION

PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For payment to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance trust funds, as provided under sections 201(m), 228(g), and 1131(b)(2) of the Social Security Act, $20,308,000.

SPECIAL BENEFITS FOR DISABLED COAL MINERS

For carrying out title IV of the Federal Mine Safety and Health Act of 1977, $426,090,000, to remain available until expended.

For making, after July 31 of the current fiscal year, benefit payments to individuals under title IV of the Federal Mine Safety and Health Act of 1977, for costs incurred in the current fiscal year, such amounts as may be necessary.

For making benefit payments under title IV of the Federal Mine Safety and Health Act 1977 for the first quarter of fiscal year 1999, $160,000,000, to remain available until expended.

SUPPLEMENTAL SECURITY INCOME PROGRAM

For carrying out titles XI and XVI of the Social Security Act, section 401 of Public Law 92–603, section 212 of Public Law 93–66, as amended, and section 405 of Public Law 95–216, including payment to the Social Security trust funds for administrative expenses incurred pursuant to section 201(g)(1) of the Social Security Act, $16,162,525,000, to remain available until expended: *Provided,* That any portion of the funds provided to a State in the current fiscal year and not obligated by the State during that year shall be returned to the Treasury: *Provided further,* That not less than $2,225,000 shall be available for conducting a disability return to work demonstration initiative, which focuses on providing persons who have lost limbs with an integrated program of prosthetic and rehabilitative care and job placement assistance.

From funds provided under the previous paragraph, not less than $100,000,000 shall be available for payment to the Social Security trust funds for administrative expenses for conducting continuing disability reviews.

In addition, $175,000,000, to remain available until September 30, 1999, for payment to the Social Security trust funds for administrative expenses for continuing disability reviews as authorized by section 103 of Public Law 104–121 and Supplemental Security Income administrative work as authorized by Public Law 104–193. The term ''continuing disability reviews'' means reviews and redeterminations as defined under section 201(g)(1)(A) of the Social Security Act, as amended, and reviews and redeterminations authorized under section 211 of Public Law 104–193.

For making, after June 15 of the current fiscal year, benefit payments to individuals under title XVI of the Social Security Act, for unanticipated costs incurred for the current fiscal year, such sums as may be necessary.

For making benefit payments under title XVI of the Social Security Act for the first quarter of fiscal year 1999, $8,680,000,000, to remain available until expended.

LIMITATION ON ADMINISTRATIVE EXPENSES

For necessary expenses, including the hire of two passenger motor vehicles, and not to exceed $10,000 for official reception and representation expenses, not more than $5,937,708,000 may be expended, as authorized by section 201(g)(1) of the Social Security Act, from any one or all of the trust funds referred to therein: *Provided,* That not less than $1,268,000 shall be for the Social Security Advisory Board: *Provided further,* That unobligated balances at the end of fiscal year 1998 not needed for fiscal year 1998 shall remain available until expended for a state-of-the-art computing network, including related equipment and non-payroll administrative expenses associated solely with this network.

From funds provided under the previous paragraph, not less than $200,000,000 shall be available for conducting continuing disability reviews.

In addition to funding already available under this heading, and subject to the same terms and conditions, $290,000,000, to remain available until September 30, 1999, for continuing disability reviews as authorized by section 103 of Public Law 104–121, section 10203 of Public Law 105–33 and Supplemental Security Income administrative work as authorized by Public Law 104–193. The term ''continuing disability reviews'' means reviews and redeterminations as defined under section 201(g)(1)(A) of the Social Security Act as amended, and reviews and redeterminations authorized under section 211 of Public Law 104–193.

In addition to funding already available under this heading, and subject to the same terms and conditions, $200,000,000, which shall remain available until expended, to invest in a state-of-the-art computing network, including related equipment and nonpayroll administrative expenses associated solely with this network, for the Social Security Administration and the State Disability Determination Services, may be expended from any or all of the trust funds as authorized by section 201(g)(1) of the Social Security Act.

In addition, $35,000,000 to be derived from administration fees in excess of $5.00 per supplementary payment collected pursuant to section 1616(d) of the Social Security Act or section 212(b)(3) of Public Law 93–66, which shall remain available until expended. To the extent that the amounts collected pursuant to such section 1616(d) or 212(b)(3) in fiscal year 1998 exceed $35,000,000, the amounts shall be available in fiscal year 1999 only to the extent provided in advance in appropriations Acts.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary for the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $6,265,000, together with not to exceed $31,089,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund.

In addition, an amount not to exceed 3 percent of the total provided in this appropriation may be transferred from the ''Limitation on Administrative Expenses'', Social Security Administration, to be merged with this account, to be available for the time and purposes for which this account is available: Provided, That notice of such transfers shall be transmitted promptly to the Committees on Appropriations of the House and Senate.

UNITED STATES INSTITUTE OF PEACE

OPERATING EXPENSES

For necessary expenses of the United States Institute of Peace as authorized in the United States Institute of Peace Act, $11,160,000.

TITLE V—GENERAL PROVISIONS

SEC. 501. The Secretaries of Labor, Health and Human Services, and Education are authorized to transfer unexpended balances of prior appropriations to accounts corresponding to current appropriations provided in this Act: *Provided*, That such transferred balances are used for the same purpose, and for the same periods of time, for which they were originally appropriated.

SEC. 502. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 503. (a) No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the Congress or any State legislature, except in presentation to the Congress or any State legislature itself.

(b) No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress or any State legislature.

SEC. 504. The Secretaries of Labor and Education are each authorized to make available not to exceed $15,000 from funds available for salaries and expenses under titles I and III, respectively, for official reception and representation expenses; the Director of the Federal Mediation and Conciliation Service is authorized to make available for official reception and representation expenses not to exceed $2,500 from the funds available for ''Salaries and expenses, Federal Mediation and Conciliation Service''; and the Chairman of the National Mediation Board is authorized to make available for official reception and representation expenses not to exceed $2,500 from funds available for ''Salaries and expenses, National Mediation Board''.

SEC. 505. Notwithstanding any other provision of this Act, no funds appropriated under this Act shall be used to carry out any program of distributing sterile needles for the hypodermic injection of any illegal drug unless the Secretary of Health and Human Services determines that such programs are effective in preventing the spread of HIV and do not encourage the use of illegal drugs.

SEC. 506. (a) Purchase of American-Made Equipment and Products.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a ''Made in America'' inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 507. When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds included in this Act, including but not limited to State and local governments and recipients of Federal research grants, shall clearly state (1) the percentage of the total costs of the program or project which will be financed with Federal money, (2) the dollar amount of Federal funds for the project or program, and (3) percentage and dollar amount of the total costs of the project or program that will be financed by nongovernmental sources.

SEC. 508. (a) None of the funds appropriated under this Act shall be expended for any abortion.

(b) None of the funds appropriated under this Act shall be expended for health benefits coverage that includes coverage of abortion.

(c) The term ''health benefits coverage'' means the package of services covered by a managed care provider or organization pursuant to a contract or other arrangement.

SEC. 509. (a) The limitations established in the preceding section shall not apply to an abortion—

(1) if the pregnancy is the result of an act of rape or incest; or

(2) in the case where a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death unless an abortion is performed.

(b) Nothing in the preceding section shall be construed as prohibiting the expenditure by a State, locality, entity, or private person of State, local, or private funds (other than a State's or locality's contribution of medicaid matching funds) for abortion services or coverage of abortion by contract or other arrangement.

(c) Nothing in the preceding section shall be construed as restricting the ability of any managed care provider or organization from offering abortion coverage or the ability of a State or locality to contract separately with such a provider for such coverage with State funds (other than a State's or locality's contribution of medicaid matching funds).

SEC. 510. Notwithstanding any other provision of law—

(1) no amount may be transferred from an appropriation account for the Departments of Labor, Health and Human Services, and Education except as authorized in this or any subsequent appropriation Act, or in the Act establishing the program or activity for which funds are contained in this Act;

(2) no department, agency, or other entity, other than the one responsible for administering the program or activity for which an appropriation is made in this Act, may exercise authority for the timing of the obligation and expenditure of such appropriation, or for the purpose for which it is obligated and expended, except to the extent and in the manner otherwise provided in sections 1512 and 1513 of title 31, United States Code; and

(3) no funds provided under this Act shall be available for the salary (or any part thereof) of an employee who is reassigned on a temporary detail basis to another position in the employing agency or department or in any other agency or department, unless the detail is independently approved by the head of the employing department or agency.

SEC. 511. None of the funds made available in this Act may be used to enforce the requirements of section 428(b)(1)(U)(iii) of the Higher Education Act of 1965 with respect to any lender when it is made known to the Federal official having authority to obligate or expend such funds that the lender has a loan portfolio under part B of title IV of such Act that is equal to or less than $5,000,000.

SEC. 512. (a) None of the funds made available in this Act may be used for—

(1) the creation of a human embryo or embryos for research purposes; or

(2) research in which a human embryo or embryos are destroyed, discarded, or knowingly subjected to risk of injury or death greater than that allowed for research on fetuses in utero under 45 CFR 46.208(a)(2) and section 498(b) of the Public Health Service Act (42 U.S.C. 289g(b)).

(b) For purposes of this section, the term ''human embryo or embryos'' include any organism, not protected as a human subject under 45 CFR 46 as of the date of the enactment of this Act, that is derived by fertilization, parthenogenesis, cloning, or any other means from one or more human gametes or human diploid cells.

SEC. 513. (a) LIMITATION ON USE OF FUNDS FOR PROMOTION OF LEGALIZATION OF CONTROLLED SUBSTANCES.—None of the funds made available in this Act may be used for any activity when it is made known to the Federal official having authority to obligate or expend such funds that the activity promotes the legalization of any drug or other substance included in schedule I of the schedules of controlled substances established by section 202 of the Controlled Substances Act (21 U.S.C. 812).

(b) EXCEPTIONS.—The limitation in subsection (a) shall not apply when it is made known to the Federal official having authority to obligate or expend such funds that there is significant medical evidence of a therapeutic advantage to the use of such drug or other substance or that Federally-sponsored clinical trials are being conducted to determine therapeutic advantage.

SEC. 514. None of the funds made available in this Act may be obligated or expended to enter into or renew a contract with an entity when it is made known to the Federal official having authority to obligate or expend such funds that—

(1) such entity is otherwise a contractor with the United States and is subject to the requirement in section 4212(d) of title 38, United States Code, regarding submission of an annual report to the Secretary of Labor concerning employment of certain veterans; and

(2) such entity has not submitted a report as required by that section for the most recent year for which such requirement was applicable to such entity.

SEC. 515. (a) FEES FOR FEDERAL ADMINISTRATION OF STATE SUPPLEMENTARY SSI PAYMENTS.—

(1) OPTIONAL STATE SUPPLEMENTARY PAYMENTS.—

(A) IN GENERAL.—Section 1616(d)(2)(B) of the Social Security Act (42 U.S.C. 1382e(d)(2)(B)) is amended—

(i) by striking ''and'' at the end of clause (iii); and

(ii) by striking clause (iv) and inserting the following:

''(iv) for fiscal year 1997, $5.00;

''(v) for fiscal year 1998, $6.20;

''(vi) for fiscal year 1999, $7.60;

''(vii) for fiscal year 2000, $7.80;

''(viii) for fiscal year 2001, $8.10;

''(ix) for fiscal year 2002, $8.50; and

''(x) for fiscal year 2003 and each succeeding fiscal year—

''(I) the applicable rate in the preceding fiscal year, increased by the percentage, if any, by which the Consumer Price Index for the month of June of the calendar year of the increase exceeds the Consumer Price Index for the month of June of the calendar year preceding the calendar year of the increase, and rounded to the nearest whole cent; or

''(II) such different rate as the Commissioner determines is appropriate for the State.''.

(B) CONFORMING AMENDMENT.—Section 1616(d)(2)(C) of such Act (42 U.S.C. 1382e(d)(2)(C)) is amended by striking ''(B)(iv)'' and inserting ''(B)(x)(II)''.

(2) MANDATORY STATE SUPPLEMENTARY PAYMENTS.—

(A) IN GENERAL.—Section 212(b)(3)(B)(ii) of Public Law 93–66 (42 U.S.C. 1382 note) is amended—

(i) by striking ''and'' at the end of subclause (III); and

(ii) by striking subclause (IV) and inserting the following:

''(IV) for fiscal year 1997, $5.00;

''(V) for fiscal year 1998, $6.20;

''(VI) for fiscal year 1999, $7.60;

''(VII) for fiscal year 2000, $7.80;

''(VIII) for fiscal year 2001, $8.10;

''(IX) for fiscal year 2002, $8.50; and

''(X) for fiscal year 2003 and each succeeding fiscal year—

''(aa) the applicable rate in the preceding fiscal year, increased by the percentage, if any, by which the Consumer Price Index for the month of June of the calendar year of the increase exceeds the Consumer Price Index for the month of June of the calendar year preceding the calendar year of the increase, and rounded to the nearest whole cent; or

''(bb) such different rate as the Commissioner determines is appropriate for the State.''.

(B) CONFORMING AMENDMENT.—Section 212(b)(3)(B)(iii) of such Act (42 U.S.C. 1382 note) is amended by striking ''(ii)(IV)'' and inserting ''(ii)(X)(bb)''.

(b) USE OF NEW FEES TO DEFRAY THE SOCIAL SECURITY ADMINISTRATION'S ADMINISTRATIVE EXPENSES.—

(1) CREDIT TO SPECIAL FUND FOR FISCAL YEAR 1998 AND SUBSEQUENT YEARS.—

(A) OPTIONAL STATE SUPPLEMENTARY PAYMENT FEES.—Section 1616(d)(4) of the Social Security Act (42 U.S.C. 1382e(d)(4)) is amended to read as follows:

''(4)(A) The first $5 of each administration fee assessed pursuant to paragraph (2), upon collection, shall be deposited in the general fund of the Treasury of the United States as miscellaneous receipts.

''(B) That portion of each administration fee in excess of $5, and 100 percent of each additional services fee charged pursuant to paragraph (3), upon collection for fiscal year 1998 and each subsequent fiscal year, shall be credited to a special fund established in the Treasury of the United States for State supplementary payment fees. The amounts so credited, to the extent and in the amounts provided in advance in appropriations Acts, shall be available to defray expenses incurred in carrying out this title and related laws.''.

(B) MANDATORY STATE SUPPLEMENTARY PAYMENT FEES.—Section 212(b)(3)(D) of Public Law 93–66 (42 U.S.C. 1382 note) is amended to read as follows:

''(D)(i) The first $5 of each administration fee assessed pursuant to subparagraph (B), upon collection, shall be deposited in the general fund of the Treasury of the United States as miscellaneous receipts.

''(ii) The portion of each administration fee in excess of $5, and 100 percent of each additional services fee charged pursuant to subparagraph (C), upon collection for fiscal year 1998 and each subsequent fiscal year, shall be credited to a special fund established in the Treasury of the United States for State supplementary payment fees. The amounts so credited, to the extent and in the amounts provided in advance in appropriations Acts, shall be available to defray expenses incurred in carrying out this section and title XVI of the Social Security Act and related laws.''.

(2) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—From amounts credited pursuant to section 1616(d)(4)(B) of the Social Security Act and section 212(b)(3)(D)(ii) of Public Law 93–66 to the special fund established in the Treasury of the United States for State supplementary payment fees, there is authorized to be appropriated an amount not to exceed $35,000,000 for fiscal year 1998, and such sums as may be necessary for each fiscal year thereafter, for administrative expenses in carrying out the supplemental security income program under title XVI of the Social Security Act and related laws.

SEC. 516. Section 520(c)(2)(D) of Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1997, is amended by striking ''September 30, 1997'' and inserting in lieu thereof ''December 31, 1997''.

SEC. 517. Of the budgetary resources available to agencies funded in this Act for salaries and expenses during fiscal year 1998, $75,500,000, to be allocated by the Office of Management and Budget, are permanently canceled: *Provided further,* That this provision shall not apply to the Food and Drug Administration and the Indian Health Service.

SEC. 518. REPEAL OF TOBACCO INDUSTRY SETTLEMENT CREDIT.—Subsection (k) of section 9302 of the Balanced Budget Act of 1997, as added by section 1604(f)(3) of the Taxpayer Relief Act of 1997, is repealed.

SEC. 519. (a) GENERAL LIMITATION.—Notwithstanding any other provision of law, if any attorneys' fees are paid (on behalf of attorneys for the plaintiffs or defendants) in connection with an action maintained by a State against one or more tobacco companies to recover tobacco-related medicaid expenditures or for other causes of action involved in the national tobacco settlement agreement, such fees shall—

(1) not be paid at a rate that exceeds $250 per hour; and

(2) be limited to a total of $5,000,000.

(b) FEE ARRANGEMENTS.—Subsection (a) shall apply to attorneys' fees provided for or in connection with an action of the type described in such subsection under any—

(1) court order;

(2) settlement agreement;

(3) contingency fee arrangement;

(4) arbitration procedure;

(5) alternative dispute resolution procedure (including mediation); or

(6) other arrangement providing for the payment of attorneys' fees.

(c) EXPENSES.—The limitation described in subsection (a) shall not apply to any amounts provided for the attorneys' reasonable and customary expenses.

(d) REQUIREMENTS.—No award of attorneys' fees shall be made under any national tobacco settlement until the attorneys involved have—

(1) provided to the Governor of the appropriate State, a detailed time accounting with respect to the work performed in relation to any legal action which is the subject of the settlement or with regard to the settlement itself; and

(2) made public disclosure of the time accounting under paragraph (1) and any fee agreements entered into, or fee arrangements made, with respect to any legal action that is the subject of the settlement.

(e) PROVISION OF FUNDS FOR CHILDREN'S HEALTH RESEARCH.—Any amounts provided for attorneys' fees in excess of the limitation applicable under this section shall be paid into the Treasury for use by the National Institutes of Health for research relating to children's health.

(f) EFFECTIVE DATE.—The limitation on the payment of attorneys' fees contained in this section shall become effective on the date of enactment of any Act providing for a national tobacco settlement.

SEC. 520. SENSE OF THE SENATE ON COMPENSATION FOR TOBACCO GROWERS AS PART OF LEGISLATION ON THE NATIONAL TOBACCO SETTLEMENT.

(a) FINDINGS.— (1) On June 20, 1997, representatives of tobacco manufacturers, public health organizations, and Attorneys General from a majority of the States announced that an agreement had been reached on a national tobacco settlement;

(2) the national tobacco settlement was intended to provide a comprehensive framework for dealing with several issues relevant to the tobacco industry, including youth smoking prevention, legal liabilities, and the sales and marketing practices of the industry;

(3) implementation of the national tobacco settlement requires the enactment of Federal legislation by the Congress and the President;

(4) there are more than 125,000 farms in the United States which derive a substantial portion of their income from the cultivation and sale of tobacco;

(5) representatives of tobacco growers were completely excluded from the negotiations on the national tobacco settlement, and were poorly informed, or not informed at all, of any details of the settlement negotiations by any participants in those negotiations;

(6) the national tobacco settlement includes compensation for several adversely affected groups, including NASCAR, rodeo, and other event sponsors, but includes absolutely no compensation whatsoever or other provisions relating to the impact of the settlement on tobacco growers;

(7) no other group has their livelihoods affected by the national tobacco settlement as adversely as tobacco growers;

(8) the local economies of tobacco growing communities will be adversely affected by implementation of the national tobacco settlement;

(9) the national tobacco settlement contemplates $368,500,000,000 in payments from tobacco manufacturers over the next 25 years, and not all of this amount has been specifically earmarked by the agreement; and

(10) the Federal tobacco program was designed to operate at no net cost to the Federal taxpayer, the national tobacco settlement does not contemplate any changes to the operation of this program, and even many critics of the national tobacco settlement, including representatives from the public health community, have expressed support for the continued operation of a Federal tobacco program which operates at no net cost to taxpayers.

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

(1) tobacco growers should be fairly compensated as part of any Federal legislation for the adverse impact which will follow from the enactment of the national tobacco settlement;

(2) tobacco growing communities should be provided sufficient resources to adequately adjust to the impact on their local economies which will result from the enactment of the national tobacco settlement;

(3) any compensation provided to tobacco growers and tobacco growing communities as part of Federal legislation to implement the national tobacco settlement should be included within the $368,500,000,000 in payments which are to be provided over the next 25 years; and

(4) No provisions should be included in any Federal legislation to implement the national tobacco settlement which would restrict or adversely affect the continued administration of a viable Federal tobacco program which operates at no net cost to the taxpayer.

SEC. 521. Nothing in this Act may be construed to interfere with, or abrogate, any agreement previously entered into between any State and any private attorney or attorneys with respect to litigation involving tobacco.

SEC. 522. It is the sense of the Senate that attorneys' fees paid in connection with an action maintained by a State against one or more tobacco companies to recover tobacco-related costs affected by Federal tobacco settlement legislation should be publicly disclosed and should not displace spending in the settlement legislation intended for public health.

SEC. 523. (a) Notwithstanding any other provision of law, the Secretary of Education shall award the total amount of funds described in subsection (b) directly to local educational agencies in accordance with subsection (d) to enable the local educational agencies to support programs or activities for kindergarten through grade 12 students that the local educational agencies deem appropriate.

(b) The total amount of funds referred to in subsection (a) are all funds that are appropriated for the Department of Education under this Act to support programs or activities for kindergarten through grade 12 students, other than—

(1) amounts appropriated under this Act—

(A) to carry out title VIII of the Elementary and Secondary Education Act of 1965;

(B) to carry out the Individuals with Disabilities Education Act;

(C) to carry out the Adult Education Act;

(D) to carry out the Museum and Library Services Act;

(E) for departmental management expenses of the Department of Education; or

(F) to carry out the Educational Research, Development, Dissemination, and Improvement Act;

(G) to carry out the National Education Statistics Act of 1994;

(H) to carry out section 10601 of the Elementary and Secondary Education Act of 1965;

(I) to carry out section 2102 of the Elementary and Secondary Education Act of 1965;

(J) to carry out part K of the Elementary and Secondary Education Act of 1965;

(K) to carry out subpart 5 of part A of title IV of the Higher Education Act of 1965; or

(L) to carry out title I of the Elementary and Secondary Education Act of 1965; or

(2) 50 percent of the amount appropriated under title III under the headings ''Rehabilitation Services and Disability Research'' and ''Vocational and Adult Education''.

(c) Each local educational agency shall conduct a census to determine the number of kindergarten through grade 12 students served by the local educational agency not later than 21 days after the beginning of the school year. Each local educational agency shall submit the number to the Secretary.

(d) The Secretary shall determine the amount awarded to each local educational agency under subsection (a) as follows:

(1) First, the Secretary, using the information provided under subsection (c), shall determine a per child amount by dividing the total amount of funds described in subsection (b), by the total number of kindergarten through grade 12 students in all States.

(2) Second, the Secretary, using the information provided under subsection (c), shall determine the baseline amount for each local educational agency by multiplying the per child amount determined under paragraph (1) by the number of kindergarten through grade 12 students that are served by the local educational agency.

(3) Lastly, the Secretary shall compute the amount awarded to each local educational agency as follows:

(A) Multiply the baseline amount determined under paragraph (2) by a factor of 1.1 for local educational agencies serving States that are in the least wealthy quintile of all States as determined by the Secretary on the basis of the per capita income of individuals in the States.

(B) Multiply the baseline amount by a factor of 1.05 for local educational agencies serving States that are in the second least wealthy such quintile.

(C) Multiply the baseline amount by a factor of 1.00 for local educational agencies serving States that are in the third least wealthy such quintile.

(D) Multiply the baseline amount by a factor of .95 for local educational agencies serving States that are in the fourth least wealthy such quintile.

(E) Multiply the baseline amount by a factor of .90 for local educational agencies serving States that are in the wealthiest such quintile.

(4) Notwithstanding paragraph (3), the Secretary shall compute the amount awarded to each local educational agency serving the State of Alaska or Hawaii by multiplying the base line amount determined under paragraph (2) for the local educational agency by a factor of 1.00.

(e) If the total amount of funds described in subsection (b) that are made available to carry out subsection (a) is insufficient to pay in full all amounts awarded under subsection (d), then the Secretary shall ratably reduce each such amount.

(f) If the Secretary determines that a local educational agency has knowingly submitted false information under subsection (c) for the purpose of gaining additional funds under subsection (a), then the local educational agency shall be fined an amount equal to twice the difference between the amount the local educational agency received under subsection (d), and the correct amount the local educational agency would have received if the agency had submitted accurate information under subsection (c).

(g)(1) Notwithstanding any other provision of law, the Secretary of Education shall award the total amount of funds made available under this Act to carry out title I of the Elementary and Secondary Education Act of 1965 for fiscal year 1998 directly to local educational agencies in accordance with paragraph (2) to enable the local educational agencies to support programs or activities for kindergarten through grade 12 students that the local educational agencies deem appropriate.

(2) Each local educational agency shall receive an amount awarded under this subsection that bears the same relation to the total amount of funds made available under this Act to carry out title I of the Elementary and Secondary Education Act of 1965 for fiscal year 1998 as the number of children counted under section 1124(c) of such Act for the local educational agency for fiscal year 1997 bears to the total number of students so counted for all local educational agencies for fiscal year 1997.

(h) Notwithstanding any other provision of this section, the total amount awarded to local educational agencies in each State under this section shall not be less than the net dollars that States would have received absent the provisions of this section.

(i) In this section—

(1) the term ''local educational agency'' has the meaning given the term in section 14101 of the Elementary and Secondary Education Act of 1965;

(2) the term ''Secretary'' means the Secretary of Education; and

(3) the term ''State'' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

SEC. 524. (a) Notwithstanding any other provision of law, the Office of Educational Research and Improvement shall submit to

the Committee on Appropriations of the Senate a spending plan for activities funded under this title under the heading ''EDUCATION RESEARCH, STATISTICS, AND IMPROVEMENT'', prior to the obligation of the funds.

(b)(1) Notwithstanding any other provision of law, the National Assessment Governing Board established under section 412 of the National Education Statistics Act of 1994 (20 U.S.C. 9011) (hereafter in this section referred to as the ''Board'') shall hereafter have exclusive authority over all policies, direction, and guidelines for establishing and implementing voluntary national tests for 4th grade English reading and 8th grade mathematics: *Provided*, That the tests shall be made available to a State, local educational agency, or private or parochial school, upon the request of the State, agency, or school, and the use of the tests shall not be a condition for receiving any Federal funds: *Provided further*, That within 90 days after the date of enactment of this Act, the Board shall review the national test development contract in effect on the date of enactment of this Act, and modify the contract as the Board determines necessary: *Provided further*, That if the contract cannot be modified to the extent determined necessary by the Board, the contract shall be terminated and the Board shall negotiate a new contract, under the Board's exclusive control, for the tests.

(2) In exercising the Board's responsibilities under paragraph (1) regarding the national tests, and notwithstanding any action undertaken by the Department of Education or a person contracting with or providing services for the Department regarding the planning, or the development of specifications, for the tests, the Board shall—

(A) ensure that the content and standards for the tests are the same as the content and standards for the National Assessment;

(B) exercise exclusive authority over any expert panel or advisory committee that will be or is established with respect to the tests;

(C) ensure that the tests are linked to the National Assessment to the maximum degree possible;

(D) develop test objectives, test specifications, and test methodology;

(E) develop policies for test administration, including guidelines for inclusion of, and accommodations for, students with disabilities and students with limited English proficiency;

(F) develop policies for reporting test results, including the use of standards or performance levels, and for test use;

(G) have final authority over the appropriateness of all test items;

(H) ensure that all items selected for use on the tests are free from racial, cultural, or gender bias; and

(I) take such actions and make such policies as the Board determines necessary.

(c) No State or local educational agency may require any private or parochial school student, or home-schooled individual, to take any test developed under this Act without the written consent of the student or individual.

(d) Section 412 of the National Education Statistics Act of 1994 (20 U.S.C. 9011) is amended—

(1) in subsection (b)(1)—

(A) by amending subparagraph (A) to read as follows:

''(A) three Governors, or former Governors, of whom not more than 1 shall be a member of the same political party as the President;'';

(B) by amending subparagraph (B) to read as follows:

''(B) two State legislators, of whom not more than 1 shall be a member of the same political party as the President;'';

(C) in subparagraph (H), by striking ''one representative'' and inserting ''three representatives'';

(D) by amending subparagraph (I) to read as follows:

''(I) two mayors, of whom not more than 1 shall be a member of the same political party as the President;'';

(E) by striking subparagraph (J); and

(F) by redesignating subparagraphs (K), (L), and (M) as subparagraphs (J), (K), and (L), respectively;

(2) in subsection (c)—

(A) in paragraph (1), by striking ''and may not exceed a period of 3'' and inserting ''and shall be for periods of 4''; and

(B) in paragraph (2), by inserting ''consecutive'' after ''two'';

(3) by amending subsection (d) to read as follows:

''(d) VACANCIES.—As vacancies on the Board occur, new members of the Board shall be appointed by the Secretary from among individuals who are nominated by the Board after consultation with representatives of the individuals described in subsection (b)(1). For each vacancy, the Board shall nominate at least 3 individuals who are qualified by experience or training to fill the particular Board vacancy.''; and

(4) in subsection (e) by adding at the end the following:

''(7) INDEPENDENCE.—In the exercise of its functions, powers, and duties, the Board shall be independent of the Secretary and the other offices and officers of the Department. The Secretary shall, by written delegation of authority, authorize the Board to award grants and contracts, and otherwise operate, to the maximum extent practicable, independent of the Department.''.

(e) Not later than 30 days after the date of enactment of this Act, the Secretary of Education, in consultation with the Speaker and Minority Leader of the House of Representatives, and the Majority Leader and Minority Leader of the Senate, shall appoint individuals to fill vacancies on the National Assessment Governing Board caused by the expiration of the terms of members of the Board, or the creation of new membership positions on the Board pursuant to amendments made by this Act.

This Act may be cited as the ''Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1998''.

Mr. SPECTER. Mr. President, I thank my distinguished colleague, Senator HARKIN, for his cooperation on this bill and the outstanding staff: Bettilou Taylor, Craig Higgins, Jim Sourwine, Jack Chow, Dale Cabaniss, for the majority, and the outstanding work on the minority side by Marsha Simon and Ellen Murray. I thank the leadership of Senator LOTT—who is right here—and has been here at all times.

I believe the passage of this bill is noteworthy. We had great problems passing a separate appropriations bill on Labor, Health and Human Services, and Education for fiscal year 1996. We were not able to get floor action on a bill until April 1996. It should have been finished on September 30, 1995. We finally broke that logjam with an amendment, which Senator HARKIN and I had offered, for an additional $2.6 billion for education and training programs. That legislation was then folded into the omnibus appropriations bill. So we did not have a regular Labor, HHS and Education appropriations bill for fiscal year 1996.

Then the fiscal year 1997 bill was not considered separately by the Senate. Instead, funding was included in an Omnibus appropriations bill that was significantly written by the administration and leadership. I said at that time that I thought the process was inappropriate. Our constitutional system is to have Congress deliberate and pass the bills and then submit them to the White House for approval or veto.

This year we were able to complete it the regular Labor, HHS and Education appropriations bill. It took a fair amount of time. We started on September 2. Senator LOTT brought us back at 11 o'clock the day after Labor Day. We now mark its conclusion. I am delighted. I also thank the distinguished minority leader, the Democratic leader. We have concluded action on an important bill. I thank the Chair and yield the floor.

Mr. HARKIN. Mr. President, I join with my colleague, my chairman, Senator SPECTER, in commending, first of all, the staff for all the wonderful work they did in pulling this bill together. I especially want to thank Craig Higgins, Bettilou Taylor, Jack Chow, Jim Sourwine of Senator SPECTER's staff. And our staff on our side: Ellen Murray and Marsha Simon.

This is a very complex, very big bill. It took us a long time to get it through. The Senate worked its will, and we did finish action on the bill. For the most part, I think it is a good bill, and I think it does move us in the right direction. There is a lot of good stuff in there for children's health, preventive health care measures. There are good provisions in there dealing with human services. For the most part, there are a lot of good items in there that will advance the cause of education in this country.

However, I must once again, Mr. President, for the record state that the adoption of the Gorton amendment basically does away with all the targeted programs that this Congress has supported on a bipartisan basis for so long; things like vocational education, bilingual education, education technology, and some of the newer ones, like Goals 2000. These are all done away with by the Gorton amendment.

What it says is we are going to take all this money and it goes to the local education agencies without any restrictions whatsoever. I am concerned that this was not widely known by a number of Senators when the vote was taken, and what also was not widely known, I don't believe, is that we have always had a cap, a limitation on how much money could be spent for administration.

That has been even more heavily supported on the Republican side than the Democratic side, and yet that is removed. So the money that we have said should go out to States for vocational education will now go to a local education agency, and they can do whatever they want with it. They can build

a swimming pool. They can pay their superintendents whatever they want. They can take, not the 5-percent cap we have on administration, they can say we want to use 20 percent for administration.

Also, we have said in the past that these moneys should be used to supplement, not supplant, State efforts. That is taken away. So what can happen is all the money we put out to an area now that normally would go for vocational education or education technology or safe and drug-free schools, all of that money now doesn't have to be used for that, and the State can say, ''OK, we're not going to put the money in, we'll just use the Federal dollars and we'll take our money for roads, bridges'' and whatever else the State wants to do with their money, thus downgrading the amount of funds that actually go into education.

I know it was said by the Senator from Washington, ''Well, not all knowledge resides in Washington; do we know what to do best in local school districts? The answer to that, obviously, is no. Keep in mind this money is not forced on the States. We are just saying this is Federal tax money that we vote to collect. And, yes, we do have a right and an obligation under the Constitution of the United States to decide how that money is to be spent.

We don't have the obligation or the right to decide how States spend their own State tax dollars, but we certainly do have the right and the constitutional obligation to decide how we spend Federal tax dollars. And that's what we said. We want it spent on vocational education. We want it spent on safe and drug-free schools. Those programs have been supported widely on both sides of the aisle.

We have also said we don't want more than 5 percent of that money to go to administrative costs, which has been widely supported on both sides of the aisle. That is all taken away by the Gorton amendment.

Mr. President, I talked with a number of my colleagues on this side of the aisle—certainly not all of them—but a great number of them prior to the vote on final passage. While I voted for final passage of the bill, because there is a lot more good than bad in it, I must state for the record that if, in fact, this provision is not dropped in conference, if we don't have the votes to drop it in conference, if it comes back from conference, as the minority manager on this bill, I am going to vote against it.

I hope that the President will send strong signals that he will veto this bill if this provision remains in the bill because it would do away with years and years of what we have done to focus attention on areas of education, like vocational education, safe and drug-free schools, education technology and others, that we thought were so necessary in order to move this country forward. I just hope this provision will be dropped in conference and that we can come back and support the bill out of conference with the same strong vote that we had here.

Mr. President, I yield the floor.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

UNANIMOUS-CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. LOTT. As in executive session, I ask unanimous consent that at the hour of 2 p.m. today, the Senate proceed to a vote on Executive Calendar No. 234, the nomination of Joseph Bataillon, to be immediately followed by a vote on Calendar No. 236, Christopher Droney, to be immediately followed by a vote on Calendar No. 237, Janet Hall. I ask unanimous consent that there be 2 minutes of debate, equally divided, prior to each of the above votes.

I further ask unanimous consent that immediately following those votes, Calendar Nos. 238, 239, 245 and 247 be confirmed.

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

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

ORDER OF PROCEDURE

Mr. LOTT. Mr. President, for the information then of all Senators, that is three judicial nominations that have been cleared on both sides of the aisle, although recorded votes will be required, and then two U.S. attorneys that have been on the calendar for some time, U.S. Attorney Sharon Zealey of Ohio and U.S. Attorney James Hurd of the Virgin Islands. We also have two nominees for the Corporation for Public Broadcasting that we are able to confirm.

With these nominations moving forward, I think it is very positive for the Senate. I want the Senators to be aware that there will be three back-to-back votes beginning at 2 p.m. today.

Also, I am very pleased we are going to be able to get clearance for all committees to meet during the afternoon hours and the rest of this morning.

I believe, Mr. President, we will momentarily be prepared to go to opening statements with regard to the Food and Drug Administration reform. Senator JEFFORDS and Senator KENNEDY are here ready to proceed.

Mr. President, with regard to the comments made by Senator HARKIN, the fundamental difference in his position and our position with regard to education funds is that we just believe that the people at the local level and people at the State level want good education in their schools. I am a big advocate of vocational education, but I just happen to believe that if the State of Mississippi had more discretion in how those funds are to be used, they probably would put more money in vocational education in our State and less money in some of the programs they are mandated to do by the Federal Government.

We want good vocational education. We want safe schools. The difference is we just think that parents and teachers at the local level would do a better job of deciding how to educate their children than dictates from Washington, DC, and the Federal bureaucracy. It has not worked. We spent billions of dollars on education, and the test scores and the quality of education and the safety of the schools and parental involvement has gone down, down, down, down.

It is time we try something else to really improve education in America. That is what we are trying to do.

I yield the floor, Mr. President.

FOOD AND DRUG ADMINISTRATION MODERNIZATION AND ACCOUNTABILITY ACT OF 1997

The PRESIDING OFFICER. The clerk will report the bill.

The legislative clerk read as follows:

A bill (S. 830) to amend the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act to improve the regulation of food, drugs, devices, and biological products, and for other purposes, which had been reported from to the Committee on Labor and Human Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Food and Drug Administration Modernization and Accountability Act of 1997''.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. References.

TITLE I—IMPROVING PATIENT ACCESS

Sec. 101. Mission of the Food and Drug Administration.
Sec. 102. Expedited access to investigational therapies.
Sec. 103. Expanded humanitarian use of devices.

TITLE II—INCREASING ACCESS TO EXPERTISE AND RESOURCES

Sec. 201. Interagency collaboration.
Sec. 202. Sense of the committee regarding mutual recognition agreements and global harmonization efforts.
Sec. 203. Contracts for expert review.
Sec. 204. Accredited-party reviews.
Sec. 205. Device performance standards.

TITLE III—IMPROVING COLLABORATION AND COMMUNICATION

Sec. 301. Collaborative determinations of device data requirements.
Sec. 302. Collaborative review process.

TITLE IV—IMPROVING CERTAINTY AND CLARITY OF RULES

Sec. 401. Policy statements.
Sec. 402. Product classification.
Sec. 403. Use of data relating to premarket approval.
Sec. 404. Consideration of labeling claims for product review.

Sec. 405. Definition of a day for purposes of product review.
Sec. 406. Certainty of review timeframes.
Sec. 407. Limitations on initial classification determinations.
Sec. 408. Clarification with respect to a general use and specific use of a device.
Sec. 409. Clarification of the number of required clinical investigations for approval.
Sec. 410. Prohibited acts.

TITLE V—IMPROVING ACCOUNTABILITY

Sec. 501. Agency plan for statutory compliance and annual report.

TITLE VI—BETTER ALLOCATION OF RESOURCES BY SETTING PRIORITIES

Sec. 601. Minor modifications.
Sec. 602. Environmental impact review.
Sec. 603. Exemption of certain classes of devices from premarket notification requirement.
Sec. 604. Evaluation of automatic class III designation.
Sec. 605. Secretary's discretion to track devices.
Sec. 606. Secretary's discretion to conduct postmarket surveillance.
Sec. 607. Reporting.
Sec. 608. Pilot and small-scale manufacture.
Sec. 609. Requirements for radiopharmaceuticals.
Sec. 610. Modernization of regulation of biological products.
Sec. 611. Approval of supplemental applications for approved products.
Sec. 612. Health care economic information.
Sec. 613. Expediting study and approval of fast track drugs.
Sec. 614. Manufacturing changes for drugs and biologics.
Sec. 615. Data requirements for drugs and biologics.
Sec. 616. Food contact substances.
Sec. 617. Health claims for food products.
Sec. 618. Pediatric studies marketing exclusivity.
Sec. 619. Positron emission tomography.

TITLE VII—FEES RELATING TO DRUGS

Sec. 701. Short title.
Sec. 702. Findings.
Sec. 703. Definitions.
Sec. 704. Authority to assess and use drug fees.
Sec. 705. Annual reports.
Sec. 706. Effective date.
Sec. 707. Termination of effectiveness.

TITLE VIII—MISCELLANEOUS

Sec. 801. Registration of foreign establishments.
Sec. 802. Elimination of certain labeling requirements.
Sec. 803. Clarification of seizure authority.
Sec. 804. Intramural research training award program.
Sec. 805. Device samples.
Sec. 806. Interstate commerce.
Sec. 807. National uniformity for nonprescription drugs and cosmetics.
Sec. 808. Information program on clinical trials for serious or life-threatening diseases.
Sec. 809. Application of Federal law to the practice of pharmacy compounding.

SEC. 3. REFERENCES.

Except as otherwise expressly provided, wherever 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 Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.).

TITLE I—IMPROVING PATIENT ACCESS

SEC. 101. MISSION OF THE FOOD AND DRUG ADMINISTRATION.

Section 903 (21 U.S.C. 393) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following:

''(b) MISSION.—

''(1) IN GENERAL.—The Administration shall protect the public health by ensuring that—

''(A) foods are safe, wholesome, sanitary, and properly labeled;

''(B) human and veterinary drugs are safe and effective;

''(C) there is reasonable assurance of safety and effectiveness of devices intended for human use;

''(D) cosmetics are safe; and

''(E) public health and safety are protected from electronic product radiation.

''(2) SPECIAL RULES.—The Administration shall promptly and efficiently review clinical research and take appropriate action on the marketing of regulated products in a manner that does not unduly impede innovation or product availability. The Administration shall participate with other countries to reduce the burden of regulation, to harmonize regulatory requirements, and to achieve appropriate reciprocal arrangements with other countries.''.

SEC. 102. EXPEDITED ACCESS TO INVESTIGATIONAL THERAPIES.

Chapter V (21 U.S.C. 351 et seq.) is amended by adding at the end the following:

''SUBCHAPTER D—UNAPPROVED THERAPIES AND DIAGNOSTICS

''SEC. 551. EXPANDED ACCESS TO UNAPPROVED THERAPIES AND DIAGNOSTICS.

''(a) IN GENERAL.—Any person, acting through a physician licensed in accordance with State law, may request from a manufacturer or distributor, and any manufacturer or distributor may provide to a person after compliance with the provisions of this section, an investigational drug (including a biological product) or investigational device for the diagnosis, monitoring, or treatment of a serious disease or condition, or any other disease or condition designated by the Secretary as appropriate for expanded access under this section if—

''(1) the licensed physician determines that the person has no comparable or satisfactory alternative therapy available to diagnose, monitor, or treat the disease or condition involved;

''(2) the licensed physician determines that the risk to the person from the investigational drug or investigational device is not greater than the risk from the disease or condition;

''(3) the Secretary determines that an exemption for the investigational drug or investigational device is in effect under a regulation promulgated pursuant to section 505(i) or 520(g) and the sponsor of the drug or device and investigators comply with such regulation;

''(4) the Secretary determines that the manufacturer of the investigational drug or investigational device is actively pursuing marketing approval with due diligence;

''(5) the Secretary determines that expanded access to the investigational drug or investigational device will not interfere with adequate enrollment of patients by the investigator in the ongoing clinical investigation of the investigational drug or investigational device authorized under section 505(i) or 520(g); and

''(6) the Secretary determines that there is sufficient evidence of safety and effectiveness to support the expanded use of the investigational drug or investigational device in accordance with this section.

''(b) PROTOCOLS.—A manufacturer or distributor may submit to the Secretary 1 or more expanded access protocols covering expanded access use of a drug or device described in subsection (a). The protocols shall be subject to the provisions of section 505(i) or 520(g) and may include any form of use of the drug or device outside a clinical investigation, prior to approval of the drug or device for marketing, including protocols for treatment use, emergency use, or uncontrolled trials, and single patient protocols. If the request for expanded access to an investigational drug or investigational device is intended for a single patient only, the Secretary may waive the requirements of paragraphs (3) and (4) of subsection (a) and accept a submission under section 505(i) or 520(g) for an exemption for the investigational drug or investigational device for the single patient use. In the case of an emergency that does not allow sufficient time for a submission under section 505(i) or 520(g), the Secretary may, prior to the submission, authorize the shipment of the investigational drug or investigational device for a single patient use.

''(c) NOTIFICATION OF AVAILABILITY.—The Secretary shall inform national, State, and local medical associations and societies, voluntary health associations, and other appropriate persons about the availability of an investigational drug or investigational device under expanded access protocols submitted under this section, except that this subsection shall not apply to expanded access protocols for single patient use.

''(d) TERMINATION.—The Secretary may at anytime terminate expanded access provided under subsection (a) for an investigational drug or investigational device if the requirements under this section are no longer met.''.

SEC. 103. EXPANDED HUMANITARIAN USE OF DEVICES.

Section 520(m) (21 U.S.C. 360j(m)) is amended—

(1) in paragraph (2), by adding at the end the following flush sentences:

''The request shall be in the form of an application submitted to the Secretary. Not later than 60 days after the date of the receipt of the application, the Secretary shall issue an order approving or denying the application.'';

(2) in paragraph (4)—

(A) in subparagraph (B), by inserting after ''(2)(A)'' the following: '', unless a physician determines that waiting for such an approval from an institutional review committee will cause harm or death to a patient, and makes a good faith effort to obtain the approval, and does not receive a timely response from an institutional review committee on the request of the physician for approval to use the device for such treatment or diagnosis''; and

(B) by adding at the end the following flush sentences:

''In a case in which a physician described in subparagraph (B) uses a device without an approval from an institutional review committee, the physician shall, after the use of the device, notify the chairperson of the institutional review committee of such use. Such notification shall include the identification of the patient involved, the date on which the device was used, and the reason for the use.''; and

(3) by striking paragraph (5) and inserting the following:

''(5) The Secretary may require a person granted an exemption under paragraph (2) to demonstrate continued compliance with the requirements of this subsection if the Secretary believes such demonstration to be necessary to protect the public health or if the Secretary has reason to believe that the criteria for the exemption are no longer met.''.

TITLE II—INCREASING ACCESS TO EXPERTISE AND RESOURCES

SEC. 201. INTERAGENCY COLLABORATION.

Section 903(b) (21 U.S.C. 393(b)), as added by section 101(2), is amended by adding at the end the following:

''(3) INTERAGENCY COLLABORATION.—The Secretary shall implement programs and policies that will foster collaboration between the Administration, the National Institutes of Health, and other science-based Federal agencies, to enhance the scientific and technical expertise available to the Secretary in the conduct of the duties of the Secretary with respect to the development, clinical investigation, evaluation, and postmarket monitoring of emerging medical therapies, including complementary therapies, and advances in nutrition and food science.''.

SEC. 202. SENSE OF THE COMMITTEE REGARDING MUTUAL RECOGNITION AGREEMENTS AND GLOBAL HARMONIZATION EFFORTS.

It is the sense of the Committee on Labor and Human Resources of the Senate that—

(1) the Secretary of Health and Human Services should support the Office of the United States Trade Representative, in consultation with the Secretary of Commerce, in efforts to move toward the acceptance of mutual recognition agreements relating to the regulation of drugs, biological products, devices, foods, food additives, and color additives, and the regulation of good manufacturing practices, between the European Union and the United States;

(2) the Secretary of Health and Human Services should regularly participate in meetings with representatives of other foreign governments to discuss and reach agreement on methods and approaches to harmonize regulatory requirements; and

(3) the Office of International Relations of the Department of Health and Human Services (as established under section 803 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 383)) should have the responsibility of ensuring that the process of harmonizing international regulatory requirements is continuous.

SEC. 203. CONTRACTS FOR EXPERT REVIEW.

Chapter IX (21 U.S.C. 391 et seq.) is amended by adding at the end the following:

"SEC. 906. CONTRACTS FOR EXPERT REVIEW.

"(a) IN GENERAL.—

"(1) AUTHORITY.—The Secretary may enter into a contract with any organization or any individual (who is not an employee of the Department) with expertise in a relevant discipline, to review, evaluate, and make recommendations to the Secretary on part or all of any application or submission (including a petition, notification, and any other similar form of request) made under this Act for the approval or classification of an article or made under section 351(a) of the Public Health Service Act (42 U.S.C. 262(a)) with respect to a biological product. Any such contract shall be subject to the requirements of section 708 relating to the confidentiality of information.

"(2) INCREASED EFFICIENCY AND EXPERTISE THROUGH CONTRACTS.—The Secretary shall use the authority granted in paragraph (1) whenever the Secretary determines that a contract described in paragraph (1) will improve the timeliness or quality of the review of an application or submission described in paragraph (1). Such improvement may include providing the Secretary increased scientific or technical expertise that is necessary to review or evaluate new therapies and technologies.

"(b) REVIEW OF EXPERT REVIEW.—

"(1) IN GENERAL.—Subject to paragraph (2), the official of the Food and Drug Administration responsible for any matter for which expert review is used pursuant to subsection (a) shall review the recommendations of the organization or individual who conducted the expert review and shall make a final decision regarding the matter within 60 days after receiving the recommendations.

"(2) LIMITATION.—A final decision under paragraph (1) shall be made within the applicable prescribed time period for review of the matter as set forth in this Act or in the Public Health Service Act (42 U.S.C. 201 et seq.).

"(3) AUTHORITY OF SECRETARY.—Notwithstanding subsection (a), the Secretary shall retain full authority to make determinations with respect to the approval or disapproval of an article under this Act, the approval or disapproval of a biologics license with respect to a biological product under section 351(a) of the Public Health Service Act, or the classification of an article as a device under section 513(f)(1).".

SEC. 204. ACCREDITED-PARTY REVIEWS.

Subchapter A of chapter V (21 U.S.C. 351 et seq.) is amended by adding at the end the following:

"SEC. 523. ACCREDITED-PARTY PARTICIPATION.

"(a) ACCREDITATION.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Secretary shall accredit entities or individuals who are not employees of the Federal Government, to review reports made to the Secretary under section 510(k) for devices and make recommendations to the Secretary regarding the initial classification of such devices under section 513(f)(1), except that this paragraph shall not apply to reports made to the Secretary under section 510(k) for devices that are—

"(A) life-supporting;

"(B) life sustaining; or

"(C) intended for implantation in the human body for a period of over 1 year.

"(2) SPECIAL RULE.—The Secretary shall have the discretion to accredit entities or individuals who are not employees of the Federal Government—

"(A) to review reports made to the Secretary under section 510(k) for devices described in subparagraphs (A) through (C) of paragraph (1), and make recommendations of initial classification of such devices; or

"(B) to review applications for premarket approval for class III devices under section 515 and make recommendations with respect to the approval or disapproval of such applications.

"(b) ACCREDITATION.—Within 180 days after the date of enactment of this section, the Secretary shall adopt methods of accreditation that ensure that entities or individuals who conduct reviews and make recommendations under this section are qualified, properly trained, knowledgeable about handling confidential documents and information, and free of conflicts of interest. The Secretary shall publish the methods of accreditation in the Federal Register on the adoption of the methods.

"(c) WITHDRAWAL OF ACCREDITATION.—The Secretary may suspend or withdraw the accreditation of any entity or individual accredited under this section, after providing notice and an opportunity for an informal hearing, if such entity or individual acts in a manner that is substantially not in compliance with the requirements established by the Secretary under subsection (b), including the failure to avoid conflicts of interest, the failure to protect confidentiality of information, or the failure to competently review premarket submissions for devices.

"(d) SELECTION AND COMPENSATION.—Subject to subsection (a)(2), a person who intends to make a report described in subsection (a), or to submit an application described in subsection (a), to the Secretary shall have the option to select an accredited entity or individual to review such report or application. Upon the request by a person to have a report or application reviewed by an accredited entity or individual, the Secretary shall identify for the person no less than 2 accredited entities or individuals from whom the selection may be made. Compensation for an accredited entity or individual shall be determined by agreement between the accredited entity or individual and the person who engages the services of the accredited entity or individual and shall be paid by the person who engages such services.

"(e) REVIEW BY SECRETARY.—

"(1) IN GENERAL.—The Secretary shall require an accredited entity or individual, upon making a recommendation under this section with respect to an initial classification of a device or approval or disapproval of an application for premarket approval, to notify the Secretary in writing of the reasons for such recommendation.

"(2) TIME PERIOD FOR REVIEW.—

"(A) INITIAL CLASSIFICATION.—Not later than 30 days after the date on which the Secretary is notified under paragraph (1) by an accredited entity or individual with respect to a recommendation of an initial classification of a device, the Secretary shall make a determination with respect to the initial classification.

"(B) PREMARKET APPROVAL.—Not later than 60 days after the date on which the Secretary is notified under paragraph (1) by an accredited entity or individual with respect to a recommendation of an approval or disapproval of an application for a device, the Secretary shall make a determination with respect to the approval or disapproval.

"(3) SPECIAL RULE.—The Secretary may change the initial classification under section 513(f)(1), or the approval or disapproval of the application under section 515(d), that is recommended by the accredited entity or individual under this section, and in such case shall notify in writing the person making the report or application described in subsection (a) of the detailed reasons for the change.

"(f) DURATION.—The authority provided by this section terminates—

"(1) 5 years after the date on which the Secretary notifies Congress that at least 2 persons accredited under subsection (b) are available to review devices for each of at least 70 percent of the generic types of devices subject to review under subsection (a); or

"(2) 4 years after the date on which the Secretary notifies Congress that at least 35 percent of the devices that are subject to review under subsection (a), and that were the subject of final action by the Secretary in the fiscal year preceding the date of such notification, were reviewed by the Secretary under subsection (e), whichever occurs first.

"(g) REPORT.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Secretary shall contract with an independent research organization to prepare and submit to the Secretary a written report examining the use of accredited entities and individuals to conduct reviews under this section. The Secretary shall submit the report to Congress not later than 6 months prior to the conclusion of the applicable period described in subsection (f).

"(2) CONTENTS.—The report by the independent research organization described in paragraph (1) shall identify the benefits or detriments to public and patient health of using accredited entities and individuals to conduct such reviews, and shall summarize all relevant data, including data on the review of accredited entities and individuals (including data on the review times, recommendations, and compensation of the entities and individuals), and data on the review of the Secretary (including data on the review times, changes, and reasons for changes of the Secretary).".

SEC. 205. DEVICE PERFORMANCE STANDARDS.

(a) ALTERNATIVE PROCEDURE.—Section 514 (21 U.S.C. 360d) is amended by adding at the end the following:

"Recognition of a Standard

"(c)(1)(A) In addition to establishing performance standards under this section, the Secretary may, by publication in the Federal Register, recognize all or part of a performance standard established by a nationally or internationally recognized standard development organization for which a person may submit a declaration of conformity in order to meet premarket submission requirements or other requirements under this Act to which such standards are applicable.

"(B) If a person elects to use a performance standard recognized by the Secretary under subparagraph (A) to meet the requirements described in subparagraph (A), the person shall provide a declaration of conformity to the Secretary that certifies that the device is in conformity with such standard. A person may elect to use data, or information, other than data required by a standard recognized under subparagraph (A) to fulfill or satisfy any requirement under this Act.

"(2) The Secretary may withdraw such recognition of a performance standard through publication of a notice in the Federal Register that the Secretary will no longer recognize the

standard, if the Secretary determines that the standard is no longer appropriate for meeting the requirements under this Act.

''(3)(A) Subject to subparagraph (B), the Secretary shall accept a declaration of conformity that a device is in conformity with a standard recognized under paragraph (1) unless the Secretary finds—

''(i) that the data or information submitted to support such declaration does not demonstrate that the device is in conformity with the standard identified in the declaration of conformity; or

''(ii) that the standard identified in the declaration of conformity is not applicable to the particular device under review.

''(B) The Secretary may request, at any time, the data or information relied on by the person to make a declaration of conformity with respect to a standard recognized under paragraph (1).

''(C) A person relying on a declaration of conformity with respect to a standard recognized under paragraph (1) shall maintain the data and information demonstrating conformity of the device to the standard for a period of 2 years after the date of the classification or approval of the device by the Secretary or a period equal to the expected design life of the device, whichever is longer.''.

(b) SECTION 301.—Section 301 (21 U.S.C. 331) is amended by adding at the end the following:

''(x) The falsification of a declaration of conformity submitted under subsection (c) of section 514 or the failure or refusal to provide data or information requested by the Secretary under section 514(c)(3).''.

(c) SECTION 501.—Section 501(e) (21 U.S.C. 351(e)) is amended—

(1) by striking ''(e)'' and inserting ''(e)(1)''; and

(2) by inserting at the end the following:

''(2) If it is, declared to be, purports to be, or is represented as, a device that is in conformity with any performance standard recognized under section 514(c) unless such device is in all respects in conformity with such standard.''.

TITLE III—IMPROVING COLLABORATION AND COMMUNICATION

SEC. 301. COLLABORATIVE DETERMINATIONS OF DEVICE DATA REQUIREMENTS.

Section 513(a)(3) (21 U.S.C. 360c(a)(3)) is amended by adding at the end the following:

''(C)(i)(I) The Secretary, upon the written request of any person intending to submit an application under section 515, shall meet with such person to determine the type of valid scientific evidence (within the meaning of subparagraphs (A) and (B)) that will be necessary to demonstrate the effectiveness of a device for the conditions of use proposed by such person, to support an approval of an application. The written request shall include a detailed description of the device, a detailed description of the proposed conditions of use of the device, and, if available, information regarding the expected performance from the device. Within 30 days after such meeting, the Secretary shall specify in writing the type of valid scientific evidence that will provide a reasonable assurance that a device is effective under the conditions of use proposed by such person.

''(II) Any clinical data, including 1 or more well-controlled investigations, specified in writing by the Secretary for demonstrating a reasonable assurance of device effectiveness shall be specified as a result of a determination by the Secretary—

''(aa) that such data are necessary to establish device effectiveness; and

''(bb) that no other less burdensome means of evaluating device effectiveness is available that would have a reasonable likelihood of resulting in an approval.

''(ii) The determination of the Secretary with respect to the specification of valid scientific evidence under clause (i) shall be binding upon the Secretary, unless—

''(I) such determination by the Secretary would be contrary to the public health; or

''(II) based on new information (other than the information reviewed by the Secretary in making such determination) obtained by the Secretary prior to the approval of an application for an investigational device exemption under section 520(g), the Secretary finds that such determination is scientifically inappropriate.''.

SEC. 302. COLLABORATIVE REVIEW PROCESS.

Section 515(d) (21 U.S.C. 360e(d)) is amended—

(1) in paragraph (1)(A), by striking ''paragraph (2) of this subsection'' each place it appears and inserting ''paragraph (4)'';

(2) by redesignating paragraphs (2) and (3) as paragraphs (4) and (5), respectively; and

(3) by inserting after paragraph (1) the following:

''(2)(A)(i) The Secretary shall, upon the written request of the applicant involved, meet with the applicant not later than 100 days after the receipt of an application, from the applicant, that has been filed as complete under subsection (c), to discuss the review status of the application.

''(ii) If the application does not appear in a form that would require an approval under this subsection, the Secretary shall in writing, and prior to the meeting, provide to the applicant a description of any deficiencies in the application identified by the Secretary and identify the information (other than information the Secretary needs to make a finding under paragraph (4)(C)) that is required to bring the application into an approvable form.

''(iii) The Secretary and the applicant may, by mutual consent, establish a different schedule for a meeting required under this paragraph.

''(B) The Secretary shall notify the applicant immediately of any deficiency identified in the application that was not described as a deficiency in the written description provided by the Secretary under subparagraph (A).''.

TITLE IV—IMPROVING CERTAINTY AND CLARITY OF RULES

SEC. 401. POLICY STATEMENTS.

Section 701(a) (21 U.S.C. 371(a)) is amended—

(1) by striking ''(a) The'' and inserting ''(a)(1) The''; and

(2) by adding at the end the following:

''(2) Not later than February 27, 1999, the Secretary, after evaluating the effectiveness of the Good Guidance Practices document published in the Federal Register at 62 Fed. Reg. 8961, shall promulgate a regulation specifying the policies and procedures of the Food and Drug Administration for the development, issuance, and use of guidance documents.''.

SEC. 402. PRODUCT CLASSIFICATION.

Chapter VII (21 U.S.C. 371 et seq.) is amended by adding at the end the following:

''SUBCHAPTER D—CLASSIFICATION OF PRODUCTS AND ENVIRONMENTAL IMPACT REVIEWS

''SEC. 741. CLASSIFICATION OF PRODUCTS.

''(a) REQUEST.—A person who submits an application or submission (including a petition, notification, and any other similar form of request) under this Act, may submit a request to the Secretary respecting the classification of an article (including an article that is a combination product subject to section 503(g)) as a drug, biological product, or device, or respecting the component of the Food and Drug Administration that will regulate the article. In submitting the request, the person shall recommend a classification for the article, or a component to regulate the article, as appropriate.

''(b) STATEMENT.—Not later than 60 days after the receipt of the request described in subsection (a), the Secretary shall determine the classification of the article or the component of the Food and Drug Administration that will regulate the article and shall provide to the person a written statement that identifies the classification of the article or the component of the Food and Drug Administration that will regulate the article and the reasons for such determination. The Secretary may not modify such statement except with the written consent of the person or for public health reasons.

''(c) INACTION OF SECRETARY.—If the Secretary does not provide the statement within the 60-day period described in subsection (b), the recommendation made by the person under subsection (a) shall be considered to be a final determination by the Secretary of the classification of the article or the component of the Food and Drug Administration that will regulate the article and may not be modified by the Secretary except with the written consent of the person or for public health reasons.''.

SEC. 403. USE OF DATA RELATING TO PREMARKET APPROVAL.

(a) IN GENERAL.—Section 520(h)(4) (21 U.S.C. 360j(h)(4)) is amended to read as follows:

''(4)(A) Any information contained in an application for premarket approval filed with the Secretary pursuant to section 515(c) (including information from clinical and preclinical tests or studies that demonstrate the safety and effectiveness of a device, but excluding descriptions of methods of manufacture and product composition) shall be available, 6 years after the application has been approved by the Secretary, for use by the Secretary in—

''(i) approving another device;

''(ii) determining whether a product development protocol has been completed, under section 515 for another device;

''(iii) establishing a performance standard or special control under this Act; or

''(iv) classifying or reclassifying another device under section 513 and subsection (l)(2).

''(B) The publicly available detailed summaries of information respecting the safety and effectiveness of devices required by paragraph (1)(A) shall be available for use by the Secretary as the evidentiary basis for the agency action described in subparagraph (A).''.

(b) CONFORMING AMENDMENT.—Section 517(a) (21 U.S.C. 360g(a)) is amended—

(1) in paragraph (8), by adding ''or'' at the end;

(2) in paragraph (9), by striking '', or'' and inserting a comma; and

(3) by striking paragraph (10).

SEC. 404. CONSIDERATION OF LABELING CLAIMS FOR PRODUCT REVIEW.

(a) PREMARKET APPROVAL.—Section 515(d)(1)(A) (21 U.S.C. 360e(d)(1)(A)) is amended by adding at the end the following flush sentences:

''In making the determination whether to approve or deny the application, the Secretary shall rely on the conditions of use included in the proposed labeling as the basis for determining whether or not there is a reasonable assurance of safety and effectiveness, if the proposed labeling is neither false nor misleading. In determining whether or not such labeling is false or misleading, the Secretary shall fairly evaluate all material facts pertinent to the proposed labeling.''.

(b) PREMARKET NOTIFICATION.—Section 513(i)(1) (21 U.S.C. 360c(i)(1)) is amended by adding at the end the following:

''(C) Whenever the Secretary requests information to demonstrate that the devices with differing technological characteristics are substantially equivalent, the Secretary shall only request information that is necessary to make a substantial equivalence determination. In making such a request, the Secretary shall consider the least burdensome means of demonstrating substantial equivalence and shall request information accordingly.

''(D) The determinations of the Secretary under this section and section 513(f)(1) with respect to the intended use of a device shall be based on the intended use included in proposed labeling of the device submitted in a report under section 510(k).''.

SEC. 405. DEFINITION OF A DAY FOR PURPOSES OF PRODUCT REVIEW.

Section 201 (21 U.S.C. 321) is amended by adding at the end the following:

''(ii) In any provision relating to a review of any application or submission (including a petition, notification, and any other similar form of request), made under this Act with respect to an article that is a new drug, device, biological product, new animal drug, an animal feed bearing or containing a new animal drug, color additive, or food additive, that is submitted to the Secretary to obtain marketing approval, to obtain classification of a device under section 513(f)(1), or to establish or clarify the regulatory status of the article—

''(1) the term 'day' means a calendar day in which the Secretary has responsibility to review such an application or submission; and

''(2) a reference to a date relating to the receipt of such an application or submission by the Secretary shall be deemed to be a reference to the date on which the Secretary receives a complete application or submission within the meaning of this Act and the regulations promulgated under this Act.''.

SEC. 406. CERTAINTY OF REVIEW TIMEFRAMES.

(a) CLARIFICATION ON THE 90-DAY TIMEFRAME FOR PREMARKET NOTIFICATION REVIEWS.—Section 510(k) (21 U.S.C. 360) is amended by adding at the end the following flush sentence:

''The Secretary shall review the notification required by this subsection and make a determination under section 513(f)(1) not later than 90 days after receiving the notification.''.

(b) CERTAINTY OF 180-DAY REVIEW TIMEFRAME.—Section 515(d) (21 U.S.C. 360e(d)), as amended by section 302, is amended by inserting after paragraph (2) the following:

''(3) Except as provided in paragraph (1), the period for the review of an application by the Secretary under this subsection shall be not more than 180 days. Such period may not be restarted or extended even if the application is amended.''.

SEC. 407. LIMITATIONS ON INITIAL CLASSIFICATION DETERMINATIONS.

Section 510 (21 U.S.C. 360) is amended by adding at the end the following:

''(m) The Secretary may not withhold a determination of the initial classification of a device under section 513(f)(1) because of a failure to comply with any provision of this Act that is unrelated to a substantial equivalence decision, including a failure to comply with the requirements relating to good manufacturing practices under section 520(f).''.

SEC. 408. CLARIFICATION WITH RESPECT TO A GENERAL USE AND SPECIFIC USE OF A DEVICE.

Not later than 270 days after the date of enactment of this section, the Secretary of Health and Human Services shall promulgate a final regulation specifying the general principles that the Secretary of Health and Human Services will consider in determining when a specific intended use of a device is not reasonably included within a general use of such device for purposes of a determination of substantial equivalence under section 513(f)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360c(f)(1)).

SEC. 409. CLARIFICATION OF THE NUMBER OF REQUIRED CLINICAL INVESTIGATIONS FOR APPROVAL.

(a) DEVICE CLASSES.—Section 513(a)(3)(A) (21 U.S.C. 360c(a)(3)(A)) is amended by striking ''clinical investigations'' and inserting ''1 or more clinical investigations''.

(b) NEW DRUGS.—Section 505(d) (21 U.S.C. 355(d)) is amended by adding at the end the following: ''Substantial evidence may, as appropriate, consist of data from 1 adequate and well-controlled clinical investigation and confirmatory evidence (obtained prior to or after such investigation), if the Secretary determines, based on relevant science, that such data and evidence are sufficient to establish effectiveness.''.

SEC. 410. PROHIBITED ACTS.

Section 301(l) (21 U.S.C. 331(l)) is repealed.

TITLE V—IMPROVING ACCOUNTABILITY

SEC. 501. AGENCY PLAN FOR STATUTORY COMPLIANCE AND ANNUAL REPORT.

Section 903(b) (21 U.S.C. 393(b)), as amended by section 201, is further amended by adding at the end the following:

''(4) AGENCY PLAN FOR STATUTORY COMPLIANCE.—

''(A) IN GENERAL.—Not later than 180 days after the date of enactment of this paragraph, the Secretary, after consultation with relevant experts, health care professionals, representatives of patient and consumer advocacy groups, and the regulated industry, shall develop and publish in the Federal Register a plan bringing the Secretary into compliance with each of the obligations of the Secretary under this Act and other relevant statutes. The Secretary shall biannually review the plan and shall revise the plan as necessary, in consultation with such persons.

''(B) OBJECTIVES OF AGENCY PLAN.—The plan required by subparagraph (A) shall establish objectives, and mechanisms to be used by the Secretary, acting through the Commissioner, including objectives and mechanisms that—

''(i) minimize deaths of, and harm to, persons who use or may use an article regulated under this Act;

''(ii) maximize the clarity of, and the availability of information about, the process for review of applications and submissions (including petitions, notifications, and any other similar forms of request) made under this Act, including information for potential consumers and patients concerning new products;

''(iii) implement all inspection and postmarket monitoring provisions of this Act by July 1, 1999;

''(iv) ensure access to the scientific and technical expertise necessary to ensure compliance by the Secretary with the statutory obligations described in subparagraph (A);

''(v) establish a schedule to bring the Administration into full compliance by July 1, 1999, with the time periods specified in this Act for the review of all applications and submissions described in clause (ii) and submitted after the date of enactment of this paragraph; and

''(vi) reduce backlogs in the review of all applications and submissions described in clause (ii) for any article with the objective of eliminating all backlogs in the review of the applications and submissions by January 1, 2000.

''(5) ANNUAL REPORT.—

''(A) CONTENTS.—The Secretary shall prepare and publish in the Federal Register and solicit public comment on an annual report that—

''(i) provides detailed statistical information on the performance of the Secretary under the plan described in paragraph (4);

''(ii) compares such performance of the Secretary with the objectives of the plan and with the statutory obligations of the Secretary;

''(iii) analyzes any failure of the Secretary to achieve any objective of the plan or to meet any statutory obligation;

''(iv) identifies any regulatory policy that has a significant impact on compliance with any objective of the plan or any statutory obligation; and

''(v) sets forth any proposed revision to any such regulatory policy, or objective of the plan that has not been met.

''(B) STATISTICAL INFORMATION.—The statistical information described in subparagraph (A)(i) shall include a full statistical presentation relating to all applications and submissions (including petitions, notifications, and any other similar forms of request) made under this Act and approved or subject to final action by the Secretary during the year covered by the report. In preparing the statistical presentation, the Secretary shall take into account the date of—

''(i) the submission of any investigational application;

''(ii) the application of any clinical hold;

''(iii) the submission of any application or submission (including a petition, notification, and any other similar form of request) made under this Act for approval or clearance;

''(iv) the acceptance for filing of any application or submission described in clause (iii) for approval or clearance;

''(v) the occurrence of any unapprovable action;

''(vi) the occurrence of any approvable action; and

''(vii) the approval or clearance of any application or submission described in clause (iii).''.

TITLE VI—BETTER ALLOCATION OF RESOURCES BY SETTING PRIORITIES

SEC. 601. MINOR MODIFICATIONS.

(a) ACTION ON INVESTIGATIONAL DEVICE EXEMPTIONS.—Section 520(g) (21 U.S.C. 360j(g)) is amended by adding at the end the following:

''(6)(A) The Secretary shall, not later than 120 days after the date of enactment of this paragraph, by regulation modify parts 812 and 813 of title 21, Code of Federal Regulations to update the procedures and conditions under which a device intended for human use may, upon application by the sponsor of the device, be granted an exemption from the requirements of this Act.

''(B) The regulation shall permit developmental changes in a device (including manufacturing changes) in response to information collected during an investigation without requiring an additional approval of an application for an investigational device exemption or the approval of a supplement to such application, if the sponsor of the investigation determines, based on credible information, prior to making any such changes, that the changes—

''(i) do not affect the scientific soundness of an investigational plan submitted under paragraph (3)(A) or the rights, safety, or welfare of the human subjects involved in the investigation; and

''(ii) do not constitute a significant change in design, or a significant change in basic principles of operation, of the device.''.

(b) ACTION ON APPLICATION.—Section 515(d)(1)(B) (21 U.S.C. 360e(d)(1)(B)) is amended by adding at the end the following:

''(iii) The Secretary shall accept and review data and any other information from investigations conducted under the authority of regulations required by section 520(g), to make a determination of whether there is a reasonable assurance of safety and effectiveness of a device subject to a pending application under this section if—

''(I) the data or information is derived from investigations of an earlier version of the device, the device has been modified during or after the investigations (but prior to submission of an application under subsection (c)) and such a modification of the device does not constitute a significant change in the design or in the basic principles of operation of the device that would invalidate the data or information; or

''(II) the data or information relates to a device approved under this section, is available for use under this Act, and is relevant to the design and intended use of the device for which the application is pending.''.

(c) ACTION ON SUPPLEMENTS.—Section 515(d) (21 U.S.C. 360e(d)), as amended by section 302, is further amended by adding at the end the following:

''(6)(A)(i) A supplemental application shall be required for any change to a device subject to an approved application under this subsection that affects safety or effectiveness, unless such change is a modification in a manufacturing procedure or method of manufacturing and the holder of the approved application submits a written notice to the Secretary that describes in detail the change, summarizes the data or information supporting the change, and informs the Secretary that the change has been made under the requirements of section 520(f).

''(ii) The holder of an approved application who submits a notice under clause (i) with respect to a manufacturing change of a device shall not distribute the device for a period of 14 days after the date on which the Secretary receives the notice.

''(B)(i) Subject to clause (ii), in reviewing a supplement to an approved application, for an incremental change to the design of a device that affects safety or effectiveness, the Secretary shall approve such supplement if—

''(I) nonclinical data demonstrate that the design modification creates the intended additional capacity, function, or performance of the device; and

''(II) clinical data from the approved application and any supplement to the approved application provide a reasonable assurance of safety and effectiveness for the changed device.

''(ii) The Secretary may require, when necessary, additional clinical data to evaluate the design modification to provide a reasonable assurance of safety and effectiveness.''.

SEC. 602. ENVIRONMENTAL IMPACT REVIEW.

Chapter VII (21 U.S.C. 371 et seq.), as amended by section 402, is further amended by adding at the end the following:

''SEC. 742. ENVIRONMENTAL IMPACT REVIEW.

''Notwithstanding any other provision of law, no action by the Secretary pursuant to this Act shall be subject to an environmental assessment, an environmental impact statement, or other environmental consideration unless the Secretary demonstrates, in writing—

''(1) that there is a reasonable probability that the environmental impact of the action is sufficiently substantial and within the factors that the Secretary is authorized to consider under this Act; and

''(2) that consideration of the environmental impact will directly affect the decision on the action.''.

SEC. 603. EXEMPTION OF CERTAIN CLASSES OF DEVICES FROM PREMARKET NOTIFICATION REQUIREMENT.

(a) CLASS I AND CLASS II DEVICES.—Section 510(k) (21 U.S.C. 360(k)) is amended by striking ''intended for human use'' and inserting ''intended for human use (except a device that is classified into class I under section 513 or 520 unless the Secretary determines such device is intended for a use that is of substantial importance in preventing impairment of human health or such device presents a potential unreasonable risk of illness or injury, or a device that is classified into class II under section 513 or 520 and is exempt from the requirements of this subsection under subsection (l))''.

(b) PUBLICATION OF EXEMPTION.—Section 510 (21 U.S.C. 360) is amended by inserting after subsection (k) the following:

''(l)(1) Not later than 30 days after the date of enactment of this subsection, the Secretary shall publish in the Federal Register a list of each type of class II device that does not require a notification under subsection (k) to provide reasonable assurance of safety and effectiveness. Each type of class II device identified by the Secretary not to require the notification shall be exempt from the requirement to provide notification under subsection (k) as of the date of the publication of the list in the Federal Register.

''(2) Beginning on the date that is 1 day after the date of the publication of a list under this subsection, the Secretary may exempt a class II device from the notification requirement of subsection (k), upon the Secretary's own initiative or a petition of an interested person, if the Secretary determines that such notification is not necessary to assure the safety and effectiveness of the device. The Secretary shall publish in the Federal Register notice of the intent of the Secretary to exempt the device, or of the petition, and provide a 30-day comment period for public comment. Within 120 days after the issuance of the notice in the Federal Register, the Secretary shall publish an order in the Federal Register that sets forth the final determination of the Secretary regarding the exemption of the device that was the subject of the notice.''.

SEC. 604. EVALUATION OF AUTOMATIC CLASS III DESIGNATION.

Section 513(f) (21 U.S.C. 360c(f)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by striking ''paragraph (2)'' and inserting ''paragraph (3)''; and

(B) in the last sentence, by striking ''paragraph (2)'' and inserting ''paragraph (2) or (3)'';

(2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(3) by inserting after paragraph (1) the following:

''(2)(A) Any person who submits a report under section 510(k) for a type of device that has not been previously classified under this Act, and that is classified into class III under paragraph (1), may request, within 30 days after receiving written notice of such a classification, the Secretary to classify the device into class I or II under the criteria set forth in subparagraphs (A) through (C) subsection (a)(1). The person may, in the request, recommend to the Secretary a classification for the device. The request shall describe the device and provide detailed information and reasons for the recommended classification.

''(B)(i) Not later than 60 days after the date of the submission of the request under subparagraph (A) for classification of a device under the criteria set forth in subparagraphs (A) through (C) of subsection (a)(1), the Secretary shall by written order classify the device. Such classification shall be the initial classification of the device for purposes of paragraph (1) and any device classified under this paragraph into class I or II shall be a predicate device for determining substantial equivalence under paragraph (1).

''(ii) A device that remains in class III under this subparagraph shall be deemed to be adulterated within the meaning of section 501(f)(1)(B) until approved under section 515 or exempted from such approval under section 520(g).

''(C) Within 30 days after the issuance of an order classifying a device under this paragraph, the Secretary shall publish a notice in the Federal Register announcing such classification.''.

SEC. 605. SECRETARY'S DISCRETION TO TRACK DEVICES.

(a) RELEASE OF INFORMATION.—Section 519(e) (21 U.S.C. 360i(e)) is amended by adding at the end the following flush sentence:

''Any patient receiving a device subject to tracking under this section may refuse to release, or refuse permission to release, the patient's name, address, social security number, or other identifying information for the purpose of tracking.''.

(b) PUBLICATION OF CERTAIN DEVICES.—Not later than 180 days after the date of enactment of this Act, the Secretary of Health and Human Services shall develop and publish in the Federal Register a list that identifies each type of device subject to tracking under section 519(e)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360i(e)(1)). Each device not identified by the Secretary of Health and Human Services under this subsection or designated by the Secretary under section 519(e)(2) shall be deemed to be exempt from the mandatory tracking requirement under section 519 of such Act. The Secretary of Health and Human Services shall have authority to modify the list of devices exempted from the mandatory tracking requirements.

SEC. 606. SECRETARY'S DISCRETION TO CONDUCT POSTMARKET SURVEILLANCE.

(a) IN GENERAL.—Section 522 (21 U.S.C. 360l) is amended by striking ''SEC. 522.'' and all that follows through ''(2) DISCRETIONARY SURVEILLANCE.—The'' and inserting the following:

''SEC. 522. (a) DISCRETIONARY SURVEILLANCE.—The''.

(b) SURVEILLANCE APPROVAL.—Section 522(b) (21 U.S.C. 360l(b)) is amended to read as follows:

''(b) SURVEILLANCE APPROVAL.—

''(1) IN GENERAL.—Each manufacturer that receives notice from the Secretary that the manufacturer is required to conduct surveillance of a device under subsection (a) shall, not later than 30 days after receiving the notice, submit for the approval of the Secretary, a plan for the required surveillance.

''(2) DETERMINATION.—Not later than 60 days after the receipt of the plan, the Secretary shall determine if a person proposed in the plan to conduct the surveillance has sufficient qualifications and experience to conduct the surveillance and if the plan will result in the collection of useful data that can reveal unforeseen adverse events or other information necessary to protect the public health and to provide safety and effectiveness information for the device.

''(3) LIMITATION ON PLAN APPROVAL.—The Secretary may not approve the plan until the plan has been reviewed by a qualified scientific and technical review committee established by the Secretary.''.

(c) DURATION OF SURVEILLANCE.—Section 522 (21 U.S.C. 360l), as amended by subsection (b), is further amended by adding at the end the following:

''(c) DURATION OF SURVEILLANCE.—

''(1) IN GENERAL.—Each manufacturer required to conduct surveillance of a device under subsection (a) shall be required to conduct such surveillance for not longer than 24 months.

''(2) EXTENSION OF THE PERIOD OF SURVEILLANCE.—If the Secretary determines that additional surveillance is needed to identify the incidence of adverse events documented during the initial period of surveillance that were not foreseen at the time of approval or classification of the device, the Secretary may extend the period of surveillance for such time as may be necessary after providing the person required to conduct such surveillance an opportunity for an informal hearing to determine whether or not additional surveillance is appropriate and to determine the appropriate period, if any, for such surveillance.''.

SEC. 607. REPORTING.

(a) REPORTS.—Section 519 (21 U.S.C. 360i) is amended—

(1) in subsection (a)—

(A) in the first sentence by striking ''make such reports, and provide such information,'' and inserting ''and submit such samples and components of devices (as required by paragraph (10)),''; and

(B) by inserting after the first sentence the following: ''Every person who is a manufacturer or importer of a device intended for human use shall make reports, and provide such information, as the Secretary may by regulation reasonably require to assure that such device is not adulterated or misbranded and to assure the safety and effectiveness of such device.'';

(C) in the last sentence by striking ''sentence'' and inserting ''sentences'';

(D) in paragraph (8), by striking ''; and'' and inserting a semicolon; and

(E) by striking paragraph (9) and inserting the following:

''(9) shall require distributors to keep records and make such records available to the Secretary upon request; and'';

(2) by striking subsection (d); and

(3) in subsection (f), by striking '', importer, or distributor'' each place it appears and inserting ''or importer''.

(b) REGISTRATION.—Section 510(g) (21 U.S.C. 360(g)) is amended—

(1) by redesignating paragraph (4) as paragraph (5);

(2) by inserting after paragraph (3), the following:

''(4) any distributor who acts as a wholesale distributor of devices, and who does not manufacture, repackage, process, or relabel a device; or''; and

(3) by adding at the end the following flush sentence:

''In this subsection, the term 'wholesale distributor' means any person who distributes a device from the original place of manufacture to the person who makes the final delivery or sale of the device to the ultimate consumer or user.''.

SEC. 608. PILOT AND SMALL-SCALE MANUFACTURE.

Section 505(c) (21 U.S.C. 355(c)) is amended by adding at the end the following:

''(4) A new drug manufactured in a pilot or other small facility may be used to demonstrate the safety and effectiveness of the new drug and to obtain approval of the new drug prior to scaling up to a larger facility, unless the Secretary determines that a full scale production facility is necessary to ensure the safety or effectiveness of the new drug.''.

SEC. 609. REQUIREMENTS FOR RADIOPHARMACEUTICALS.

(a) REQUIREMENTS.—

(1) REGULATIONS.—

(A) PROPOSED REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary of Health and Human Services, after consultation with patient advocacy groups, associations, physicians licensed to use radiopharmaceuticals, and the regulated industry, shall issue proposed regulations governing the approval of radiopharmaceuticals designed for diagnosis and monitoring of diseases and conditions. The regulations shall provide that the determination of the safety and effectiveness of such a radiopharmaceutical under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) or section 351 of the Public Health Service Act (42 U.S.C. 262) shall include (but not be limited to) consideration of the proposed use of the radiopharmaceutical in the practice of medicine, the pharmacological and toxicological activity of the radiopharmaceutical (including any carrier or ligand component of the radiopharmaceutical), and the estimated absorbed radiation dose of the radiopharmaceutical.

(B) FINAL REGULATIONS.—Not later than 18 months after the date of enactment of this Act, the Secretary shall promulgate final regulations governing the approval of the radiopharmaceuticals.

(2) SPECIAL RULE.—In the case of a radiopharmaceutical intended to be used for diagnostic or monitoring purposes, the indications for which such radiopharmaceutical is approved for marketing may, in appropriate cases, refer to manifestations of disease (such as biochemical, physiological, anatomic, or pathological processes) common to, or present in, 1 or more disease states.

(b) DEFINITION.—In this section, the term ''radiopharmaceutical'' means—

(1) an article—

(A) that is intended for use in the diagnosis or monitoring of a disease or a manifestation of a disease in humans; and

(B) that exhibits spontaneous disintegration of unstable nuclei with the emission of nuclear particles or photons; or

(2) any nonradioactive reagent kit or nuclide generator that is intended to be used in the preparation of any such article.

SEC. 610. MODERNIZATION OF REGULATION OF BIOLOGICAL PRODUCTS.

(a) LICENSES.—

(1) IN GENERAL.—Section 351(a) of the Public Health Service (42 U.S.C. 262(a)) is amended to read as follows:

''(a)(1) Except as provided in paragraph (4), no person shall introduce or deliver for introduction into interstate commerce any biological product unless—

''(A) a biologics license is in effect for the biological product; and

''(B) each package of the biological product is plainly marked with—

''(i) the proper name of the biological product contained in the package;

''(ii) the name, address, and applicable license number of the manufacturer of the biological product; and

''(iii) the expiration date of the biological product.

''(2)(A) The Secretary shall establish, by regulation, requirements for the approval, suspension, and revocation of biologics licenses.

''(B) The Secretary shall approve a biologics license application on the basis of a demonstration that—

''(i) the biological product that is the subject of the application is safe, pure, and potent; and

''(ii) the facility in which the biological product is manufactured, processed, packed, or held meets standards designed to assure that the biological product continues to be safe, pure, and potent.

''(3) A biologics license application shall be approved only if the applicant (or other appropriate person) consents to the inspection of the facility that is the subject of the application, in accordance with subsection (c).

''(4) The Secretary shall prescribe requirements under which a biological product undergoing investigation shall be exempt from the requirements of paragraph (1).''.

(2) ELIMINATION OF EXISTING LICENSE REQUIREMENT.—Section 351(d) of the Public Health Service Act (42 U.S.C. 262(d)) is amended—

(A) by striking ''(d)(1)'' and all that follows through ''of this section.'';

(B) in paragraph (2)—

(i) by striking ''(2)(A) Upon'' and inserting ''(d)(1) Upon;'' and

(ii) by redesignating subparagraph (B) as paragraph (2); and

(C) in paragraph (2) (as so redesignated by subparagraph (B)(ii))—

(i) by striking ''subparagraph (A)'' and inserting ''paragraph (1)''; and

(ii) by striking ''this subparagraph'' each place it appears and inserting ''this paragraph''.

(b) LABELING.—Section 351(b) of the Public Health Service Act (42 U.S.C. 262(b)) is amended to read as follows:

''(b) No person shall falsely label or mark any package or container of any biological product or alter any label or mark on the package or container of the biological product so as to falsify the label or mark.''.

(c) INSPECTION.—Section 351(c) of the Public Health Service Act (42 U.S.C. 262(c)) is amended by striking ''virus, serum,'' and all that follows and inserting ''biological product.''.

(d) DEFINITION; APPLICATION.—Section 351 of the Public Health Service Act (42 U.S.C. 262) is amended by adding at the end the following:

''(i) In this section, the term 'biological product' means a virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, analogous product, or arsphenamine or derivative of arsphenamine (or any other trivalent organic arsenic compound), applicable to the prevention, treatment, or cure of a disease or condition of human beings.''.

(e) CONFORMING AMENDMENT.—Section 503(g)(4) (21 U.S.C. 353(g)(4)) is amended—

(1) in subparagraph (A)—

(A) by striking ''section 351(a)'' and inserting ''section 351(i)''; and

(B) by striking ''262(a)'' and inserting ''262(i)''; and

(2) in subparagraph (B)(iii), by striking ''product or establishment license under subsection (a) or (d)'' and inserting ''biologics license application under subsection (a)''.

(f) SPECIAL RULE.—The Secretary of Health and Human Services shall take measures to minimize differences in the review and approval of products required to have approved biologics license applications under section 351 of the Public Health Service Act (42 U.S.C. 262) and products required to have approved full new drug applications under section 505(b)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)(1)).

SEC. 611. APPROVAL OF SUPPLEMENTAL APPLICATIONS FOR APPROVED PRODUCTS.

(a) PERFORMANCE STANDARDS.—Not later than 180 days after the date of enactment of this section, the Secretary of Health and Human Services shall publish in the Federal Register performance standards for the prompt review of supplemental applications submitted for approved articles under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.).

(b) GUIDANCE TO INDUSTRY.—Not later than 180 days after the date of enactment of this section, the Secretary of Health and Human Services shall issue final guidances to clarify the requirements for, and facilitate the submission of data to support, the approval of supplemental applications for the approved articles described in subsection (a). The guidances shall—

(1) clarify circumstances in which published matter may be the basis for approval of a supplemental application;

(2) specify data requirements that will avoid duplication of previously submitted data by recognizing the availability of data previously submitted in support of an original application; and

(3) define supplemental applications that are eligible for priority review.

(c) RESPONSIBILITIES OF CENTERS.—The Secretary of Health and Human Services shall designate an individual in each center within the Food and Drug Administration (except the Center for Food Safety and Applied Nutrition) to be responsible for—

(1) encouraging the prompt review of supplemental applications for approved articles; and

(2) working with sponsors to facilitate the development and submission of data to support supplemental applications.

(d) COLLABORATION.—The Secretary of Health and Human Services shall implement programs and policies that will foster collaboration between the Food and Drug Administration, the National Institutes of Health, professional medical and scientific societies, and other persons, to identify published and unpublished studies that may support a supplemental application, and to encourage sponsors to make supplemental applications or conduct further research in support of a supplemental application based, in whole or in part, on such studies.

SEC. 612. HEALTH CARE ECONOMIC INFORMATION.

Section 502 (21 U.S.C. 352) is amended by adding at the end the following:

''(u) In the case of a health care economic statement that is included in labeling or advertising provided to a formulary committee, managed care organization, or similar entity with responsibility for drug selection decisions (other than the label or approved physician package insert) relating to an indication approved under section 505 or 351 of the Public Health Service Act (42 U.S.C. 262), if the health care economic statement is not based on competent and reliable scientific evidence. The only requirements applicable to any such statement under this Act shall be the requirements of this paragraph. In this paragraph, the term 'health care economic statement' means any statement that identifies, measures, or compares the costs (direct, indirect, and intangible) and health care consequences of a drug to another drug, to another health care intervention for the same indication, or to no intervention, where the primary endpoint is an economic outcome.''.

SEC. 613. EXPEDITING STUDY AND APPROVAL OF FAST TRACK DRUGS.

(a) IN GENERAL.—Chapter V (21 U.S.C. 351 et seq.), as amended by section 102, is further amended by adding at the end the following:

''SUBCHAPTER E—FAST TRACK DRUGS

''SEC. 561. FAST TRACK DRUGS.

''(a) DESIGNATION OF DRUG AS A FAST TRACK DRUG.—

''(1) IN GENERAL.—The Secretary shall facilitate development, and expedite review and approval of new drugs and biological products

that are intended for the treatment of serious or life-threatening conditions and that demonstrate the potential to address unmet medical needs for such conditions. In this Act, such products shall be known as 'fast track drugs'.

''(2) REQUEST FOR DESIGNATION.—The sponsor of a drug (including a biological product) may request the Secretary to designate the drug as a fast track drug. A request for the designation may be made concurrently with, or at any time after, submission of an application for the investigation of the drug under section 505(i) or section 351(a)(4) of the Public Health Service Act.

''(3) DESIGNATION.—Within 30 calendar days after the receipt of a request under paragraph (2), the Secretary shall determine whether the drug that is the subject of the request meets the criteria described in paragraph (1). If the Secretary finds that the drug meets the criteria, the Secretary shall designate the drug as a fast track drug and shall take such actions as are appropriate to expedite the development and review of the drug.

''(b) APPROVAL OF APPLICATION FOR A FAST TRACK DRUG.—

''(1) IN GENERAL.—The Secretary may approve an application for approval of a fast track drug under section 505(b) or section 351 of the Public Health Service Act (21 U.S.C. 262) upon a determination that the drug has an effect on a surrogate endpoint that is reasonably likely to predict clinical benefit.

''(2) LIMITATION.—Approval of a fast track drug under this subsection may be subject to the requirements—

''(A) that the sponsor conduct appropriate post-approval studies to validate the surrogate endpoint or otherwise confirm the clinical benefit of the drug; and

''(B) that the sponsor submit copies of all promotional materials related to the fast track drug during the preapproval review period and following approval, at least 30 days prior to dissemination of the materials for such period of time as the Secretary deems appropriate.

''(3) EXPEDITED WITHDRAWAL OF APPROVAL.—The Secretary may withdraw approval of a fast track drug using expedited procedures (as prescribed by the Secretary in regulations) including a procedure that provides an opportunity for an informal hearing, if—

''(A) the sponsor fails to conduct any required post-approval study of the fast track drug with due diligence;

''(B) a post-approval study of the fast track drug fails to verify clinical benefit of the fast track drug;

''(C) other evidence demonstrates that the fast track drug is not safe or effective under conditions of use of the drug; or

''(D) the sponsor disseminates false or misleading promotional materials with respect to the fast track drug.

''(c) REVIEW OF INCOMPLETE APPLICATIONS FOR APPROVAL OF A FAST TRACK DRUG.—

''(1) IN GENERAL.—If preliminary evaluation by the Secretary of clinical efficacy data for a fast track drug under investigation shows evidence of effectiveness, the Secretary shall evaluate for filing, and may commence review of portions, of an application for the approval of the drug if the applicant provides a schedule for submission of information necessary to make the application complete and any fee that may be required under section 736.

''(2) EXCEPTION.—Any time period for review of human drug applications that has been agreed to by the Secretary and that has been set forth in goals identified in letters of the Secretary (relating to the use of fees collected under section 736 to expedite the drug development process and the review of human drug applications) shall not apply to an application submitted under paragraph (1) until the date on which the application is complete.

''(d) AWARENESS EFFORTS.—The Secretary shall—

''(1) develop and widely disseminate to physicians, patient organizations, pharmaceutical and biotechnology companies, and other appropriate persons a comprehensive description of the provisions applicable to fast track drugs established under this section; and

''(2) establish an ongoing program to encourage the development of surrogate endpoints that are reasonably likely to predict clinical benefit for serious or life-threatening conditions for which there exist significant unmet medical needs.''.

(b) GUIDANCE.—Within 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall issue guidance for fast track drugs that describes the policies and procedures that pertain to section 561 of the Federal Food, Drug, and Cosmetic Act.

SEC. 614. MANUFACTURING CHANGES FOR DRUGS AND BIOLOGICS.

(a) IN GENERAL.—Chapter VII (21 U.S.C. 371 et seq.), as amended by section 602, is further amended by adding at the end the following:

''SUBCHAPTER E—MANUFACTURING CHANGES

''SEC. 751. MANUFACTURING CHANGES.

''(a) IN GENERAL.—A change in the manufacture of a new drug, including a biological product, may be made in accordance with this section.

''(b) CHANGES.—

''(1) VALIDATION.—Before distributing a drug made after a change in the manufacture of the drug from the manufacturing process established in the approved new drug application under section 505, or license application under section 351 of the Public Health Service Act, the applicant shall validate the effect of the change on the identity, strength, quality, purity, and potency of the drug as the identity, strength, quality, purity, and potency may relate to the safety or effectiveness of the drug.

''(2) REPORTS.—The applicant shall report the change described in paragraph (1) to the Secretary and may distribute a drug made after the change as follows:

''(A) MAJOR MANUFACTURING CHANGES.

''(i) IN GENERAL.—Major manufacturing changes, which are of a type determined by the Secretary to have substantial potential to adversely affect the identity, strength, quality, purity, or potency of the drug as the identity, strength, quality, purity, and potency may relate to the safety or effectiveness of a drug, shall be submitted to the Secretary in a supplemental application and drugs made after such changes may not be distributed until the Secretary approves the supplemental application.

''(ii) DEFINITION.—In this subparagraph, the term 'major manufacturing changes' means—

''(I) changes in the qualitative or quantitative formulation of a drug or the specifications in the approved marketing application for the drug (unless exempted by the Secretary from the requirements of this subparagraph);

''(II) changes that the Secretary determines by regulation or issuance of guidance require completion of an appropriate human study demonstrating equivalence of the drug to the drug manufactured before such changes; and

''(III) other changes that the Secretary determines by regulation or issuance of guidance have a substantial potential to adversely affect the safety or effectiveness of the drug.

''(B) OTHER MANUFACTURING CHANGES.—

''(i) IN GENERAL.—As determined by the Secretary, manufacturing changes other than major manufacturing changes shall—

''(I) be made at any time and reported annually to the Secretary, with supporting data; or

''(II) be reported to the Secretary in a supplemental application.

''(ii) DISTRIBUTION OF THE DRUG.—In the case of changes reported in accordance with clause (i)(II)—

''(I) the applicant may distribute the drug 30 days after the Secretary receives the supplemental application unless the Secretary notifies the applicant within such 30-day period that prior approval of such supplemental application is required; and

''(II) the Secretary shall, after making the notification to the applicant under subclause (I), approve or disapprove each such supplemental application.

''(iii) SPECIAL RULE.—The Secretary may determine types of manufacturing changes after which distribution of a drug may commence at the time of submission of such supplemental application.''.

(b) EXISTING LAW.—The requirements of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.) and the Public Health Service Act (42 U.S.C. 201 et seq.) that are in effect on the date of enactment of this Act with respect to manufacturing changes shall remain in effect—

(1) for a period of 24 months after the date of enactment of this Act; or

(2) until the effective date of regulations promulgated by the Secretary of Health and Human Services implementing section 751 of the Federal Food, Drug, and Cosmetic Act,

whichever is sooner.

SEC. 615. DATA REQUIREMENTS FOR DRUGS AND BIOLOGICS.

Within 12 months after the date of enactment of this Act, the Secretary of the Health and Human Services, acting through the Commissioner of Food and Drugs, shall issue guidance that describes when abbreviated study reports may be submitted, in lieu of full reports, with a new drug application under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and with a biologics license application under section 351 of the Public Health Service Act (42 U.S.C. 262) for certain types of studies. Such guidance shall describe the kinds of studies for which abbreviated reports are appropriate and the appropriate abbreviated report formats.

SEC. 616. FOOD CONTACT SUBSTANCES.

(a) FOOD CONTACT SUBSTANCES.—Section 409(a) (21 U.S.C. 348(a)) is amended—

(1) in paragraph (1)—

(A) by striking ''subsection (i)'' and inserting ''subsection (j)''; and

(B) by striking at the end ''or'';

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

(3) by inserting after paragraph (2) the following:

''(3) in the case of a food additive as defined in this Act that is a food contact substance, there is—

''(A) in effect, and such substance and the use of such substance are in conformity with, a regulation issued under this section prescribing the conditions under which such additive may be safely used; or

''(B) a notification submitted under subsection (h) that is effective.''; and

(4) by striking the matter following paragraph (3) (as added by paragraph (2)) and inserting the following flush sentence:

''While such a regulation relating to a food additive, or such a notification under subsection (h) relating to a food additive that is a food contact substance, is in effect, and has not been revoked pursuant to subsection (i), a food shall not, by reason of bearing or containing such a food additive in accordance with the regulation or notification, be considered adulterated under section 402(a)(1).''.

(b) NOTIFICATION FOR FOOD CONTACT SUBSTANCES.—Section 409 (21 U.S.C. 348), as amended by subsection (a), is further amended—

(1) by redesignating subsections (h) and (i), as subsections (i) and (j), respectively;

(2) by inserting after subsection (g) the following:

''Notification Relating to a Food Contact Substance

''(h)(1) Subject to such regulations as may be promulgated under paragraph (3), a manufacturer or supplier of a food contact substance may, at least 120 days prior to the introduction or delivery for introduction into interstate commerce of the food contact substance, notify the

Secretary of the identity and intended use of the food contact substance, and of the determination of the manufacturer or supplier that the intended use of such food contact substance is safe under the standard described in subsection (c)(3)(A). The notification shall contain the information that forms the basis of the determination, the fee required under paragraph (5), and all information required to be submitted by regulations promulgated by the Secretary.

''(2)(A) A notification submitted under paragraph (1) shall become effective 120 days after the date of receipt by the Secretary and the food contact substance may be introduced or delivered for introduction into interstate commerce, unless the Secretary makes a determination within the 120-day period that, based on the data and information before the Secretary, such use of the food contact substance has not been shown to be safe under the standard described in subsection (c)(3)(A), and informs the manufacturer or supplier of such determination.

''(B) A decision by the Secretary to object to a notification shall constitute final agency action subject to judicial review.

''(C) In this paragraph, the term 'food contact substance' means the substance that is the subject of a notification submitted under paragraph (1), and does not include a similar or identical substance manufactured or prepared by a person other than the manufacturer identified in the notification.

''(3)(A) The process in this subsection shall be utilized for authorizing the marketing of a food contact substance except where the Secretary determines that submission and review of a petition under subsection (b) is necessary to provide adequate assurance of safety, or where the Secretary and any manufacturer or supplier agree that such manufacturer or supplier may submit a petition under subsection (b).

''(B) The Secretary is authorized to promulgate regulations to identify the circumstances in which a petition shall be filed under subsection (b), and shall consider criteria such as the probable consumption of such food contact substance and potential toxicity of the food contact substance in determining the circumstances in which a petition shall be filed under subsection (b).

''(4) The Secretary shall keep confidential any information provided in a notification under paragraph (1) for 120 days after receipt by the Secretary of the notification. After the expiration of such 120 days, the information shall be available to any interested party except for any matter in the notification that is a trade secret or confidential commercial information.

''(5)(A) Each person that submits a notification regarding a food contact substance under this section shall be subject to the payment of a reasonable fee. The fee shall be based on the resources required to process the notification including reasonable administrative costs for such processing.

''(B) The Secretary shall conduct a study of the costs of administering the notification program established under this section and, on the basis of the results of such study, shall, within 18 months after the date of enactment of the Food and Drug Administration Modernization and Accountability Act of 1997, promulgate regulations establishing the fee required by subparagraph (A).

''(C) A notification submitted without the appropriate fee is not complete and shall not become effective for the purposes of subsection (a)(3) until the appropriate fee is paid.

''(D) Fees collected pursuant to this subsection—

''(i) shall not be deposited as an offsetting collection to the appropriations for the Department of Health and Human Services;

''(ii) shall be credited to the appropriate account of the Food and Drug Administration; and

''(iii) shall be available in accordance with appropriation Acts until expended, without fiscal year limitation.

''(6) In this section, the term 'food contact substance' means any substance intended for use as a component of materials used in manufacturing, packing, packaging, transporting, or holding food if such use is not intended to have any technical effect in such food.'';

(3) in subsection (i), as so redesignated by paragraph (1), by adding at the end the following: ''The Secretary shall by regulation prescribe the procedure by which the Secretary may deem a notification under subsection (h) to no longer be effective.''; and

(4) in subsection (j), as so redesignated by paragraph (1), by striking ''subsections (b) to (h)'' and inserting ''subsections (b) to (i)''.

(c) EFFECTIVE DATE.—Notifications under section 409(h) of the Federal Food, Drug, and Cosmetic Act, as added by subsection (b), may be submitted beginning 18 months after the date of enactment of this Act.

SEC. 617. HEALTH CLAIMS FOR FOOD PRODUCTS.

Section 403(r)(3) (21 U.S.C. 343(r)(3)) is amended by adding at the end the following:

''(C) Notwithstanding the provisions of clauses (A)(i) and (B), a claim of the type described in subparagraph (1)(B) that is not authorized by the Secretary in a regulation promulgated in accordance with clause (B) shall be authorized and may be made if—

''(i) an authoritative scientific body of the Federal Government with official responsibility for public health protection or research directly relating to human nutrition (such as the National Institutes of Health or the Centers for Disease Control and Prevention), the National Academy of Sciences, or a subdivision of the scientific body or the National Academy of Sciences, has published an authoritative statement, which is currently in effect, about the relationship between a nutrient and a disease or health-related condition to which the claim refers;

''(ii) a person has submitted to the Secretary at least 90 days before the first introduction of a food into interstate commerce a notice of the claim, including a concise description of the basis upon which such person relied for determining that the requirements of subclause (i) have been satisfied;

''(iii) the claim and the food for which the claim is made are in compliance with clause (A)(ii), and are otherwise in compliance with paragraph (a) and section 201(n); and

''(iv) the claim is stated in a manner so that the claim is an accurate representation of the authoritative statement referred to in subclause (i) and so that the claim enables the public to comprehend the information provided in the claim and to understand the relative significance of such information in the context of a total daily diet.

For purposes of this paragraph, a statement shall be regarded as an authoritative statement of such a scientific body described in subclause (i) only if the statement is published by the scientific body and shall not include a statement of an employee of the scientific body made in the individual capacity of the employee.

''(D) A claim meeting the requirements of clause (C) may be made until—

''(i) such time as the Secretary issues a final regulation under clause (B) prohibiting or modifying the claim, and the regulation has become effective; or

''(ii) a district court of the United States in an enforcement proceeding under chapter III has determined that the requirements of clause (C) have not been met.''.

SEC. 618. PEDIATRIC STUDIES MARKETING EXCLUSIVITY.

Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by inserting after section 505 the following:

''SEC. 505A. PEDIATRIC STUDIES OF DRUGS.

''(a) MARKET EXCLUSIVITY FOR NEW DRUGS.—If, prior to approval of an application that is submitted under section 505(b)(1) the Secretary determines that information relating to the use of a drug in the pediatric population may produce health benefits in that population, the Secretary makes a written request for pediatric studies (which may include a timeframe for completing such studies), and such studies are completed within any such timeframe and the reports thereof submitted in accordance with subsection (d)(2) or completed within any such timeframe and the reports thereof are accepted in accordance with subsection (d)(3)—

''(1)(A) the period during which an application may not be submitted under subsections (c)(3)(D)(ii) and (j)(4)(D)(ii) of section 505 shall be five years and six months rather than five years, and the references in subsections (c)(3)(D)(ii) and (j)(4)(D)(ii) of section 505 to four years, to forty-eight months, and to seven and one-half years shall be deemed to be four and one-half years, fifty-four months, and eight years, respectively; or

''(B) the period of market exclusivity under subsections (c)(3)(D) (iii) and (iv) and (j)(4)(D) (iii) and (iv) of section 505 shall be three years and six months rather than three years; and

''(2)(A) if the drug is the subject of—

''(i) a listed patent for which a certification has been submitted under section 505(b)(2)(A)(ii) or section (j)(2)(A)(vii)(II) and for which pediatric studies were submitted prior to the expiration of the patent (including any patent extensions); or

''(ii) a listed patent for which a certification has been submitted under section 505(b)(2)(A)(iii) or section 505(j)(2)(A)(vii)(III),

the period during which an application may not be approved under section 505(c)(3) or section 505(j)(4)(B) shall be extended by a period of six months after the date the patent expires (including any patent extensions); or

''(B) if the drug is the subject of a listed patent for which a certification has been submitted under section 505(b)(2)(A)(iv) or section 505(j)(2)(A)(vii)(IV), and in the patent infringement litigation resulting from the certification the court determines that the patent is valid and would be infringed, the period during which an application may not be approved under section 505(c)(3) or section 505(j)(4)(B) shall be extended by a period of six months after the date the patent expires (including any patent extensions).

''(b) SECRETARY TO DEVELOP LIST OF DRUGS FOR WHICH ADDITIONAL PEDIATRIC INFORMATION MAY BE BENEFICIAL.—Not later than 180 days after the date of enactment of this section, the Secretary, after consultation with experts in pediatric research (such as the American Academy of Pediatrics, the Pediatric Pharmacology Research Unit Network, and the United States Pharmacopoeia) shall develop, prioritize, and publish an initial list of approved drugs for which additional pediatric information may produce health benefits in the pediatric population. The Secretary shall annually update the list.

''(c) MARKET EXCLUSIVITY FOR ALREADY-MARKETED DRUGS.—If the Secretary makes a written request for pediatric studies (which may include a timeframe for completing such studies) concerning a drug identified in the list described in subsection (b) to the holder of an approved application under section 505(b)(1) for the drug, the holder agrees to the request, and the studies are completed within any such timeframe and the reports thereof submitted in accordance with subsection (d)(2) or completed within any such timeframe and the reports thereof accepted in accordance with subsection (d)(3)—

''(1)(A) the period during which an application may not be submitted under subsections (c)(3)(D)(ii) and (j)(4)(D)(ii) of section 505 shall be five years and six months rather than five years, and the references in subsections (c)(3)(D)(ii) and (j)(4)(D)(ii) of section 505 to four years, to forty-eight months, and to seven and one-half years shall be deemed to be four

and one-half years, fifty-four months, and eight years, respectively; or

''(B) the period of market exclusivity under subsections (c)(3)(D) (iii) and (iv) and (j)(4)(D) (iii) and (iv) of section 505 shall be three years and six months rather than three years; and

''(2)(A) if the drug is the subject of—

''(i) a listed patent for which a certification has been submitted under section 505(b)(2)(A)(ii) or (j)(2)(A)(vii)(II) and for which pediatric studies were submitted prior to the expiration of the patent (including any patent extensions); or

''(ii) a listed patent for which a certification has been submitted under section 505(b)(2)(A)(iii) or section 505(j)(2)(A)(vii)(III), the period during which an application may not be approved under section 505(c)(3) or section 505(j)(4)(B) shall be extended by a period of six months after the date the patent expires (including any patent extensions); or

''(B) if the drug is the subject of a listed patent for which a certification has been submitted under section 505(b)(2)(A)(iv) or section 505(j)(2)(A)(vii)(IV), and in the patent infringement litigation resulting from the certification the court determines that the patent is valid and would be infringed, the period during which an application may not be approved under section 505(c)(3) or section 505(j)(4)(B) shall be extended by a period of six months after the date the patent expires (including any patent extensions).

''(d) CONDUCT OF PEDIATRIC STUDIES.—

''(1) AGREEMENT FOR STUDIES.—The Secretary may, pursuant to a written request for studies, after consultation with—

''(A) the sponsor of an application for an investigational new drug under section 505(i);

''(B) the sponsor of an application for a drug under section 505(b)(1); or

''(C) the holder of an approved application for a drug under section 505(b)(1),

agree with the sponsor or holder for the conduct of pediatric studies for such drug.

''(2) WRITTEN PROTOCOLS TO MEET THE STUDIES REQUIREMENT.—If the sponsor or holder and the Secretary agree upon written protocols for the studies, the studies requirement of subsection (a) or (c) is satisfied upon the completion of the studies and submission of the reports thereof in accordance with the original written request and the written agreement referred to in paragraph (1). Not later than 60 days after the submission of the report of the studies, the Secretary shall determine if such studies were or were not conducted in accordance with the original written request and the written agreement and reported in accordance with the requirements of the Secretary for filing and so notify the sponsor or holder.

''(3) OTHER METHODS TO MEET THE STUDIES REQUIREMENT.—If the sponsor or holder and the Secretary have not agreed in writing on the protocols for the studies, the studies requirement of subsection (a) or (c) is satisfied when such studies have been completed and the reports accepted by the Secretary. Not later than 90 days after the submission of the reports of the studies, the Secretary shall accept or reject such reports and so notify the sponsor or holder. The Secretary's only responsibility in accepting or rejecting the reports shall be to determine, within the 90 days, whether the studies fairly respond to the written request, whether such studies have been conducted in accordance with commonly accepted scientific principles and protocols, and whether such studies have been reported in accordance with the requirements of the Secretary for filing.

''(e) DELAY OF EFFECTIVE DATE FOR CERTAIN APPLICATIONS; PERIOD OF MARKET EXCLUSIVITY.—If the Secretary determines that the acceptance or approval of an application under section 505(b)(2) or 505(j) for a drug may occur after submission of reports of pediatric studies under this section, which were submitted prior to the expiration of the patent (including any patent extension) or market exclusivity protection, but before the Secretary has determined whether the requirements of subsection (d) have been satisfied, the Secretary shall delay the acceptance or approval under section 505(b)(2) or 505(j), respectively, until the determination under subsection (d) is made, but such delay shall not exceed 90 days. In the event that requirements of this section are satisfied, the applicable period of market exclusivity referred to in subsection (a) or (c) shall be deemed to have been running during the period of delay.

''(f) NOTICE OF DETERMINATIONS ON STUDIES REQUIREMENT.—The Secretary shall publish a notice of any determination that the requirements of subsection (d) have been met and that submissions and approvals under section 505(b)(2) or (j) for a drug will be subject to the provisions of this section.

''(g) DEFINITIONS.—As used in this section, the term 'pediatric studies' or 'studies' means at least 1 clinical investigation (that, at the Secretary's discretion, may include pharmacokinetic studies) in pediatric age-groups in which a drug is anticipated to be used.

''(h) LIMITATION.—The holder of an approved application for a new drug that has already received six months of market exclusivity under subsection (a) or (c) may, if otherwise eligible, obtain six months of market exclusivity under subsection (c)(1)(B) for a supplemental application, except that the holder is not eligible for exclusivity under subsection (c)(2).

''(i) SUNSET.—No period of market exclusivity shall be granted under this section based on studies commenced after January 1, 2004. The Secretary shall conduct a study and report to Congress not later than January 1, 2003 based on the experience under the program. The study and report shall examine all relevant issues, including—

''(1) the effectiveness of the program in improving information about important pediatric uses for approved drugs;

''(2) the adequacy of the incentive provided under this section;

''(3) the economic impact of the program; and

''(4) any suggestions for modification that the Secretary deems appropriate.''.

SEC. 619. POSITRON EMISSION TOMOGRAPHY.

(a) REGULATION OF COMPOUNDED POSITRON EMISSION TOMOGRAPHY DRUGS UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.—

(1) DEFINITION.—Section 201 (21 U.S.C. 321), as amended by section 405, is further amended by adding at the end the following:

''(jj) The term 'compounded positron emission tomography drug' means a drug that—

''(1) exhibits spontaneous disintegration of unstable nuclei, including the emission of positrons;

''(2) includes any nonradioactive reagent, reagent kit, ingredient, nuclide generator, accelerator, target material, electronic synthesizer, or other apparatus or computer program to be used in the preparation of any such drug; and

''(3)(A) has been compounded in a State in accordance with State law for a patient or for research, teaching, or quality control by or on the order of a practitioner licensed by that State to compound or order such a drug; or

''(B) has been compounded in a Federal facility in a State in accordance with the law of the State in which the facility is located.''.

(b) REGULATION AS A DRUG.—Section 501(a)(2) (21 U.S.C. 351(a)(2)) is amended by striking ''; or (3)'' and inserting the following: ''; or (C) if it is a compounded positron emission tomography drug and the methods used in, or the facilities and controls used for, its compounding, processing, packing, or holding do not conform to or are not operated or administered in conformity with the positron emission tomography compounding standards and the official monographs of the United States Pharmacopoeia to assure that such drug meets the requirements of this Act as to safety and has the identity and strength, and meets the quality and purity characteristics, which it purports or is represented to possess; or (3)''.

(c) REGULATION AS A NEW DRUG.—Section 505 (21 U.S.C. 355) is amended by adding at the end the following:

''(n) The provisions of subsections (a) and (j) shall not apply to the preparation of a compounded positron emission tomography drug.''.

(d) REVOCATION OF CERTAIN INCONSISTENT DOCUMENTS.—Not later than 30 days after the date of enactment of this Act, the Secretary of Health and Human Services shall publish in the Federal Register a notice revoking—

(1) a notice entitled ''Regulation of Positron Emission Tomographic Drug Products: Guidance; Public Workshop'', published in the Federal Register of February 27, 1995;

(2) a notice entitled ''Guidance for Industry: Current Good Manufacturing Practices for Positron Emission Tomographic (PET) Drug Products'', published in the Federal Register of April 22, 1997; and

(3) a final rule entitled ''Current Good Manufacturing Practice for Finished Pharmaceuticals; Positron Emission Tomography'', published in the Federal Register of April 22, 1997.

TITLE VII—FEES RELATING TO DRUGS

SEC. 701. SHORT TITLE.

This title may be cited as the ''Prescription Drug User Fee Reauthorization Act of 1997''.

SEC. 702. FINDINGS.

Congress finds that—

(1) prompt approval of safe and effective new drugs and other therapies is critical to the improvement of the public health so that patients may enjoy the benefits provided by these therapies to treat and prevent illness and disease;

(2) the public health will be served by making additional funds available for the purpose of augmenting the resources of the Food and Drug Administration that are devoted to the process for review of human drug applications;

(3) the provisions added by the Prescription Drug User Fee Act of 1992 have been successful in substantially reducing review times for human drug applications and should be—

(A) reauthorized for an additional 5 years, with certain technical improvements; and

(B) carried out by the Food and Drug Administration with new commitments to implement more ambitious and comprehensive improvements in regulatory processes of the Food and Drug Administration; and

(4) the fees authorized by amendments made in this title will be dedicated toward expediting the drug development process and the review of human drug applications as set forth in the goals identified in the letters of _____, and _____, from the Secretary of Health and Human Services to the chairman of the Committee on Commerce of the House of Representatives and the chairman of the Committee on Labor and Human Resources of the Senate, as set forth at ___ Cong. Rec. _____ (daily ed. _____, 1997).

SEC. 703. DEFINITIONS.

Section 735 (21 U.S.C. 379g) is amended—

(1) in the second sentence of paragraph (1)—

(A) by striking ''Service Act, and'' and inserting ''Service Act,''; and

(B) by striking ''September 1, 1992.'' and inserting the following: ''September 1, 1992, does not include an application for a licensure of a biological product for further manufacturing use only, and does not include an application or supplement submitted by a State or Federal Government entity for a drug or biological product that is not distributed commercially. Such term does include an application for licensure, as described in subparagraph (D), of a large volume biological product intended for single dose injection for intravenous use or infusion.'';

(2) in the second sentence of paragraph (3)—

(A) by striking ''Service Act, and'' and inserting ''Service Act,''; and

(B) by striking ''September 1, 1992.'' and inserting the following: ''September 1, 1992, does not include a biological product that is licensed

for further manufacturing use only, and does not include a drug or biological product that is not distributed commercially and is the subject of an application or supplement submitted by a State or Federal Government entity. Such term does include a large volume biological product intended for single dose injection for intravenous use or infusion.'';

(3) in paragraph (4), by striking ''without'' and inserting ''without substantial'';

(4) in paragraph (7)(A)—

(A) by striking ''employees under contract'' and all that follows through ''Administration,'' and inserting ''contractors of the Food and Drug Administration,''; and

(B) by striking ''and committees,'' and inserting ''and committees and to contracts with such contractors,'';

(5) in paragraph (8)—

(A) in subparagraph (A)—

(i) by striking ''August of'' and inserting ''April of''; and

(ii) by striking ''August 1992'' and inserting ''April 1997'';

(B) by striking subparagraph (B) and inserting the following:

''(B) 1 plus the total percentage increase for such fiscal year since fiscal year 1997 in basic pay under the General Schedule in accordance with section 5332 of title 5, United States Code, as adjusted by any locality-based comparability payment pursuant to section 5304 of such title for Federal employees stationed in the District of Columbia.''; and

(C) by striking the second sentence; and

(6) by adding at the end the following:

''(9) The term 'affiliate' means a business entity that has a relationship with a second business entity if, directly or indirectly—

''(A) 1 business entity controls, or has the power to control, the other business entity; or

''(B) a third party controls, or has power to control both of the business entities.''.

SEC. 704. AUTHORITY TO ASSESS AND USE DRUG FEES.

(a) TYPES OF FEES.—Section 736(a) (21 U.S.C. 379h(a)) is amended—

(1) by striking ''Beginning in fiscal year 1993'' and inserting ''Beginning in fiscal year 1998'';

(2) in paragraph (1)—

(A) by striking subparagraph (B) and inserting the following:

''(B) PAYMENT.—The fee required by subparagraph (A) shall be due upon submission of the application or supplement.'';

(B) in subparagraph (D)—

(i) in the subparagraph heading, by striking ''NOT ACCEPTED'' and inserting ''REFUSED'';

(ii) by striking ''50 percent'' and inserting ''75 percent'';

(iii) by striking ''subparagraph (B)(i)'' and inserting ''subparagraph (B)''; and

(iv) by striking ''not accepted'' and inserting ''refused''; and

(C) by adding at the end the following:

''(E) EXCEPTION FOR DESIGNATED ORPHAN DRUG OR INDICATION.—A person that submits a human drug application for a prescription drug product that has been designated as a drug for a rare disease or condition pursuant to section 526, or a supplement proposing to include a new indication for a rare disease or condition pursuant to section 526, shall not be assessed a fee under subparagraph (A), unless the human drug application includes indications for other than rare diseases or conditions.

''(F) EXCEPTION FOR APPLICATIONS AND SUPPLEMENTS FOR PEDIATRIC INDICATIONS.—A person that submits a human drug application or supplement that includes an indication for use in pediatric populations shall be assessed a fee under subparagraph (A) only if—

''(i) the application is for initial approval for use in a pediatric population; or

''(ii) the application or supplement is for approval for use in pediatric and non-pediatric populations.

''(G) REFUND OF FEE IF APPLICATION WITHDRAWN.—If an application or supplement is withdrawn after the application or supplement is filed, the Secretary may waive and refund the fee or a portion of the fee if no substantial work was performed on the application or supplement after the application or supplement was filed. The Secretary shall have the sole discretion to waive and refund a fee or a portion of the fee under this subparagraph. A determination by the Secretary concerning a waiver or refund under this paragraph shall not be reviewable.'';

(3) in paragraph (2)(A), by striking ''505(j), and'' and inserting the following: ''505(j) or under an abbreviated new drug application pursuant to regulations in effect prior to the implementation of the Drug Price Competition and Patent Term Restoration Act of 1984, or a product approved under an application filed under section 507 that is abbreviated, and''; and

(4) in paragraph (3)—

(A) in subparagraph (A)—

(i) in clause (i), by striking ''is listed'' and inserting ''has been submitted for listing''; and

(ii) by striking ''Such fee shall be payable'' and all that follows through ''section 510.'' and inserting the following: ''Such fee shall be payable for the fiscal year in which the product is first submitted for listing under section 510, or for relisting under section 510 if the product has been withdrawn from listing and relisted. After such fee is paid for that fiscal year, such fee shall be payable on or before January 31 of each year. Such fee shall be paid only once for each product for a fiscal year in which the fee is payable.''; and

(B) in subparagraph (B), by striking ''505(j).'' and inserting the following: ''505(j), or under an abbreviated new drug application pursuant to regulations in effect prior to the implementation of the Drug Price Competition and Patent Term Restoration Act of 1984, or is a product approved under an application filed under section 507 that is abbreviated.''.

(b) FEE AMOUNTS.—Section 736(b) (21 U.S.C. 379h(b)) is amended to read as follows:

''(b) FEE AMOUNTS.—Except as provided in subsections (c), (d), (f), and (g), the fees required under subsection (a) shall be determined and assessed as follows:

''(1) APPLICATION AND SUPPLEMENT FEES.—

''(A) FULL FEES.—The application fee under subsection (a)(1)(A)(i) shall be $250,704 in fiscal year 1998, $256,338 in each of fiscal years 1999 and 2000, $267,606 in fiscal year 2001, and $258,451 in fiscal year 2002.

''(B) OTHER FEES.—The fee under subsection (a)(1)(A)(ii) shall be $125,352 in fiscal year 1998, $128,169 in each of fiscal years 1999 and 2000, $133,803 in fiscal year 2001, and $129,226 in fiscal year 2002.

''(2) FEE REVENUES FOR ESTABLISHMENT FEES.—The total fee revenues to be collected in establishment fees under subsection (a)(2) shall be $35,600,000 in fiscal year 1998, $36,400,000 in each of fiscal years 1999 and 2000, $38,000,000 in fiscal year 2001, and $36,700,000 in fiscal year 2002.

''(3) TOTAL FEE REVENUES FOR PRODUCT FEES.—The total fee revenues to be collected in product fees under subsection (a)(3) in a fiscal year shall be equal to the total fee revenues collected in establishment fees under subsection (a)(2) in that fiscal year.''.

(c) INCREASES AND ADJUSTMENTS.—Section 736(c) (21 U.S.C. 379h(c)) is amended—

(1) in the subsection heading, by striking ''INCREASES AND'';

(2) in paragraph (1)—

(A) by striking ''(1) REVENUE'' and all that follows through ''increased by the Secretary'' and inserting the following: ''(1) INFLATION ADJUSTMENT.—The fees and total fee revenues established in subsection (b) shall be adjusted by the Secretary'';

(B) in subparagraph (A), by striking ''increase'' and inserting ''change'';

(C) in subparagraph (B), by striking ''increase'' and inserting ''change''; and

(D) by adding at the end the following flush sentence:

''The adjustment made each fiscal year by this subsection will be added on a compounded basis to the sum of all adjustments made each fiscal year after fiscal year 1997 under this subsection.'';

(3) in paragraph (2), by striking ''October 1, 1992,'' and all that follows through ''such schedule.'' and inserting the following: ''September 30, 1997, adjust the establishment and product fees described in subsection (b) for the fiscal year in which the adjustment occurs so that the revenues collected from each of the categories of fees described in paragraphs (2) and (3) of subsection (b) shall be set to be equal to the revenues collected during the past fiscal year from the category of application and supplement fees described in paragraph (1) of subsection (b).''; and

(4) in paragraph (3), by striking ''paragraph (2)'' and inserting ''this subsection''.

(d) FEE WAIVER OR REDUCTION.—Section 736(d) (21 U.S.C. 379h(d)) is amended—

(1) by redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively and indenting appropriately;

(2) by striking ''The Secretary shall grant a'' and all that follows through ''finds that—'' and inserting the following:

''(1) IN GENERAL.—The Secretary shall grant a waiver from or a reduction of 1 or more fees assessed under subsection (a) where the Secretary finds that—'';

(3) in subparagraph (C) (as so redesignated by paragraph (1)), by striking '', or'' and inserting a comma;

(4) in subparagraph (D) (as so redesignated by paragraph (1)), by striking the period and inserting '', or'';

(5) by inserting after subparagraph (D) (as so redesignated by paragraph (1)) the following:

''(E) the applicant is a small business submitting its first human drug application to the Secretary for review.''; and

(6) by striking ''In making the finding in paragraph (3),'' and all that follows through ''standard costs.'' and inserting the following:

''(2) USE OF STANDARD COSTS.—In making the finding in paragraph (1)(C), the Secretary may use standard costs.

''(3) RULES RELATING TO SMALL BUSINESSES.—

''(A) DEFINITION.—In paragraph (1)(E), the term 'small business' means an entity that has fewer than 500 employees, including employees of affiliates.

''(B) WAIVER OF APPLICATION FEE.—The Secretary shall waive under paragraph (1)(E) the application fee for the first human drug application that a small business or its affiliate submits to the Secretary for review. After a small business or its affiliate is granted such a waiver, the small business or its affiliate shall pay—

''(i) application fees for all subsequent human drug applications submitted to the Secretary for review in the same manner as an entity that does not qualify as a small business; and

''(ii) all supplement fees for all supplements to human drug applications submitted to the Secretary for review in the same manner as an entity that does not qualify as a small business.''.

(e) ASSESSMENT OF FEES.—Section 736(f)(1) (21 U.S.C. 379h(f)(1)) is amended—

(1) by striking ''fiscal year 1993'' and inserting ''fiscal year 1997''; and

(2) by striking ''fiscal year 1992'' and inserting ''fiscal year 1997 (excluding the amount of fees appropriated for such fiscal year)''.

(f) CREDITING AND AVAILABILITY OF FEES.—Section 736(g) (21 U.S.C. 379h(g)) is amended—

(1) in paragraph (1), by adding at the end the following: ''Such sums as may be necessary may be transferred from the Food and Drug Administration salaries and expenses appropriation account without fiscal year limitation to such appropriation account for salaries and expenses with such fiscal year limitation. The sums transferred shall be available solely for the process for the review of human drug applications within the meaning of section 735(6).'';

(2) in paragraph (2)—

(A) in subparagraph (A), by striking ''Acts'' and inserting ''Acts, or otherwise made available for obligation,''; and

(B) in subparagraph (B), by striking ''over such costs for fiscal year 1992'' and inserting ''over such costs, excluding costs paid from fees collected under this section, for fiscal year 1997''; and

(3) by striking paragraph (3) and inserting the following:

''(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fees under this section—

''(A) $106,800,000 for fiscal year 1998;

''(B) $109,200,000 for fiscal year 1999;

''(C) $109,200,000 for fiscal year 2000;

''(D) $114,000,000 for fiscal year 2001; and

''(E) $110,100,000 for fiscal year 2002,

as adjusted to reflect adjustments in the total fee revenues made under this section and changes in the total amounts collected by application, supplement, establishment, and product fees.

''(4) OFFSET.—Any amount of fees collected for a fiscal year which exceeds the amount of fees specified in appropriation Acts for such fiscal year, shall be credited to the appropriation account of the Food and Drug Administration as provided in paragraph (1), and shall be subtracted from the amount of fees that would otherwise be authorized to be collected under appropriation Acts for a subsequent fiscal year.''.

(g) REQUIREMENT FOR WRITTEN REQUESTS FOR WAIVERS, REDUCTIONS, AND FEES.—Section 736 (21 U.S.C. 379h) is amended—

(1) by redesignating subsection (i) as subsection (j); and

(2) by inserting after subsection (h) the following:

''(i) WRITTEN REQUESTS FOR WAIVERS, REDUCTIONS, AND REFUNDS.—To qualify for consideration for a waiver or reduction under subsection (d), or for a refund, of any fee collected in accordance with subsection (a), a person shall submit to the Secretary a written request for such waiver, reduction, or refund not later than 180 days after such fee is due.''.

(h) SPECIAL RULE FOR WAIVER, REFUNDS, AND EXCEPTIONS.—Any requests for waivers, refunds, or exceptions for fees paid prior to the date of enactment of this Act shall be submitted in writing to the Secretary of Health and Human Services within 1 year after the date of enactment of this Act.

SEC. 705. ANNUAL REPORTS.

(a) FIRST REPORT.—Beginning with fiscal year 1998, not later than 60 days after the end of each fiscal year during which fees are collected under part 2 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379g et seq.), the Secretary of Health and Human Services shall prepare and submit to the Committee on Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report concerning the progress of the Food and Drug Administration in achieving the goals identified in the letter described in section 702(4) during such fiscal year and the future plans of the Food and Drug Administration for meeting the goals.

(b) SECOND REPORT.—Beginning with fiscal year 1998, not later than 120 days after the end of each fiscal year during which fees are collected under the part described in subsection (a), the Secretary of Health and Human Services shall prepare and submit to the Committee on Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report on the implementation of the authority for such fees during such fiscal year and the use, by the Food and Drug Administration, of the fees collected during such fiscal year for which the report is made.

SEC. 706. EFFECTIVE DATE.

The amendments made by this title shall take effect October 1, 1997.

SEC. 707. TERMINATION OF EFFECTIVENESS.

The amendments made by sections 703 and 704 cease to be effective October 1, 2002 and section 705 ceases to be effective 120 days after such date.

TITLE VIII—MISCELLANEOUS

SEC. 801. REGISTRATION OF FOREIGN ESTABLISHMENTS.

Section 510(i) (21 U.S.C. 360(i)) is amended to read as follows:

''(i)(1) Any establishment within any foreign country engaged in the manufacture, preparation, propagation, compounding, or processing of a drug or a device that is imported or offered for import into the United States shall register with the Secretary the name and place of business of the establishment and the name of the United States agent for the establishment.

''(2) The establishment shall also provide the information required by subsection (j).

''(3) The Secretary is authorized to enter into cooperative arrangements with foreign countries to ensure that adequate and effective means are available for purposes of determining, from time to time, whether drugs or devices manufactured, prepared, propagated, compounded, or processed by an establishment described in paragraph (1), if imported or offered for import into the United States, shall be refused admission on any of the grounds set forth in section 801(a).''.

SEC. 802. ELIMINATION OF CERTAIN LABELING REQUIREMENTS.

(a) PRESCRIPTION DRUGS.—Section 503(b)(4) (21 U.S.C. 353(b)(4)) is amended to read as follows:

''(4)(A) A drug that is subject to paragraph (1) shall be deemed to be misbranded if at any time prior to dispensing the label of the drug fails to bear, at a minimum, the symbol 'Rx only'.

''(B) A drug to which paragraph (1) does not apply shall be deemed to be misbranded if at any time prior to dispensing the label of the drug bears the symbol described in subparagraph (A).''.

(b) MISBRANDED DRUG.—Section 502(d) (21 U.S.C. 352(d)) is repealed.

(c) CONFORMING AMENDMENTS.—

(1) Section 503(b)(1) (21 U.S.C. 353(b)(1)) is amended—

(A) by striking subparagraph (A); and

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

(2) Section 503(b)(3) (21 U.S.C. 353(b)(3)) is amended by striking ''section 502(d) and''.

(3) Section 102(9)(A) of the Controlled Substances Act (21 U.S.C. 802(9)(A)) is amended—

(A) in clause (i), by striking ''(i)''; and

(B) by striking ''(ii)'' and all that follows.

SEC. 803. CLARIFICATION OF SEIZURE AUTHORITY.

Section 304(d)(1) (21 U.S.C. 334(d)(1)) is amended—

(1) in paragraph (1), in the fifth sentence, by striking ''paragraphs (1) and (2) of section 801(e)'' and inserting ''subparagraphs (A) and (B) of section 801(e)(1)''; and

(2) by inserting after the fifth sentence the following: ''Any person seeking to export an imported article pursuant to any of the provisions of this subsection shall establish that the article was intended for export at the time the article entered commerce.''.

SEC. 804. INTRAMURAL RESEARCH TRAINING AWARD PROGRAM.

Chapter IX (21 U.S.C. 391 et seq.), as amended by section 203, is further amended by adding at the end the following:

''SEC. 907. INTRAMURAL RESEARCH TRAINING AWARD PROGRAM.

''(a) IN GENERAL.—The Secretary, acting through the Commissioner of Food and Drugs, may, directly or through grants, contracts, or cooperative agreements, conduct and support intramural research training in regulatory scientific programs by predoctoral and postdoctoral scientists and physicians, including the support through the use of fellowships.

''(b) LIMITATION ON PARTICIPATION.—A recipient of a fellowship under subsection (a) may not be an employee of the Federal Government.

''(c) SPECIAL RULE.—The Secretary, acting through the Commissioner of Food and Drugs, may support the provision of assistance for fellowships described in subsection (a) through a Cooperative Research and Development Agreement.''.

SEC. 805. DEVICE SAMPLES.

(a) RECALL AUTHORITY.—

(1) IN GENERAL.—Section 518(e)(2) (21 U.S.C. 360h(e)(2)) is amended by adding at the end the following:

''(C) If the Secretary issues an amended order under subparagraph (A), the Secretary may require the person subject to the order to submit such samples of the device and of components of the device as the Secretary may reasonably require. If the submission of such samples is impracticable or unduly burdensome, the requirement of this subparagraph may be met by the submission of complete information concerning the location of 1 or more such devices readily available for examination and testing.''.

(2) TECHNICAL AMENDMENT.—Section 518(e)(2)(A) (21 U.S.C. 360h(e)(2)(A)) is amended by striking ''subparagraphs (B) and (C)'' and inserting ''subparagraph (B)''.

(b) RECORDS AND REPORTS ON DEVICES.—Section 519(a) (21 U.S.C. 360i(a)) is amended by inserting after paragraph (9) the following:

''(10) may reasonably require a manufacturer, importer, or distributor to submit samples of a device and of components of the device that may have caused or contributed to a death or serious injury, except that if the submission of such samples is impracticable or unduly burdensome, the requirement of this paragraph may be met by the submission of complete information concerning the location of 1 or more such devices readily available for examination and testing.''.

SEC. 806. INTERSTATE COMMERCE.

Section 709 (21 U.S.C. 379a) is amended by striking ''a device'' and inserting ''a device, food, drug, or cosmetic''.

SEC. 807. NATIONAL UNIFORMITY FOR NONPRESCRIPTION DRUGS AND COSMETICS.

Chapter VII (21 U.S.C. 371 et seq.), as amended by section 614, is further amended by adding at the end the following:

''SUBCHAPTER F—NATIONAL UNIFORMITY FOR NONPRESCRIPTION DRUGS FOR HUMAN USE AND COSMETICS

''SEC. 761. NATIONAL UNIFORMITY FOR NONPRESCRIPTION DRUGS AND COSMETICS.

''(a) IN GENERAL.—Except as provided in subsection (b), (c)(1), or (d), no State or political subdivision of a State may establish or continue in effect any requirement—

''(1) that relates to the regulation of a drug intended for human use that is not subject to the requirements of section 503(b)(1) or a cosmetic; and

''(2) that is different from or in addition to, or that is otherwise not identical with, a requirement of this Act, the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 et seq.), or the Fair Packaging and Labeling Act (15 U.S.C. 1451 et seq.).

''(b) EXEMPTION.—Upon application of a State, the Secretary may by regulation, after notice and opportunity for written and oral presentation of views, exempt from subsection (a), under such condition as may be prescribed in such regulation, a State requirement that—

''(1) protects an important public interest that would otherwise be unprotected;

''(2) would not cause any drug or cosmetic to be in violation of any applicable requirement or prohibition under Federal law; and

''(3) would not unduly burden interstate commerce.

''(c) SCOPE.—For purposes of subsection (a), a requirement that relates to the regulation of a drug or cosmetic—

''(1) shall not include any requirement that relates to the practice of pharmacy or any requirement that a drug be dispensed only upon the prescription of a practitioner licensed by law to administer such drug; and

''(2) shall be deemed to include any requirement relating to public information or any other form of public communication relating to the safety or effectiveness of a drug or cosmetic.

''(d) NO EFFECT ON PRODUCT LIABILITY LAW.—Nothing in this section shall be construed to modify or otherwise affect any action or the liability of any person under the product liability law of any State.''.

SEC. 808. INFORMATION PROGRAM ON CLINICAL TRIALS FOR SERIOUS OR LIFE-THREATENING DISEASES.

(a) IN GENERAL.—Section 402 of the Public Health Service Act (42 U.S.C. 282) is amended—

(1) by redesignating subsections (j) and (k) as subsections (k) and (l), respectively; and

(2) by inserting after subsection (i), the following:

''(j)(1) The Secretary, acting through the Director of the National Institutes of Health and subject to the availability of appropriations, shall establish, maintain, and operate a program with respect to information on research relating to the treatment, detection, and prevention of serious or life-threatening diseases and conditions. The program shall, with respect to the agencies of the Department of Health and Human Services, be integrated and coordinated, and, to the extent practicable, coordinated with other data banks containing similar information.

''(2)(A) After consultation with the Commissioner of Food and Drugs, the directors of the appropriate agencies of the National Institutes of Health (including the National Library of Medicine), and the Director of the Centers for Disease Control and Prevention, the Secretary shall, in carrying out paragraph (1), establish a data bank of information on clinical trials for drugs, and biologicals, for serious or life-threatening diseases and conditions.

''(B) In carrying out subparagraph (A), the Secretary shall collect, catalog, store and disseminate the information described in such subparagraph. The Secretary shall disseminate such information through information systems, which shall include toll-free telephone communications, available to individuals with serious or life-threatening diseases and conditions, to other members of the public, to health care providers, and to researchers.

''(3) The Data Bank shall include the following:

''(A) A registry of clinical trials (whether federally or privately funded) of experimental treatments for serious or life-threatening diseases and conditions under regulations promulgated pursuant to sections 505 and 520 of the Federal Food, Drug, and Cosmetic Act that provides a description of the purpose of each experimental drug or biological protocol, either with the consent of the protocol sponsor, or when a trial to test efficacy begins. Information provided shall consist of eligibility criteria, a description of the location of trial sites, and a point of contact for those wanting to enroll in the trial, and shall be in a form that can be readily understood by members of the public. Such information must be forwarded to the Data Bank by the sponsor of the trial not later than 21 days after the approval by the Food and Drug Administration.

''(B) Information pertaining to experimental treatments for serious or life-threatening diseases and conditions that may be available—

''(i) under a treatment investigational new drug application that has been submitted to the Food and Drug Administration pursuant to part 312 of title 21, Code of Federal Regulations; or

''(ii) as a Group C cancer drug.

The Data Bank may also include information pertaining to the results of clinical trials of such treatments, with the consent of the sponsor, including information concerning potential toxicities or adverse effects associated with the use or administration of such experimental treatments.

''(4) The Data Bank shall not include information relating to an investigation if the sponsor has certified to the Secretary that disclosure of such information would substantially interfere with the timely enrollment of subjects in the investigation.

''(5) For the purpose of carrying out this subsection, there are authorized to be appropriated such sums as may be necessary. Fees collected under section 736 of the Federal Food, Drug, and Cosmetic (21 U.S.C. 379h) shall not be authorized or appropriated for use in carrying out this subsection.''.

(b) COLLABORATION AND REPORT.—

(1) IN GENERAL.—The Secretary of Health and Human Services, the Director of the National Institutes of Health, and the Commissioner of Food and Drugs shall collaborate to determine the feasibility of including device investigations within the scope of the registry requirements set forth in subsection (j) of section 402 of the Public Health Service Act.

(2) REPORT.—Not later than 2 years after the date of enactment of this section, the Secretary of Health and Human Services shall prepare and submit to the Committee on Labor and Human Resources of the Senate and the Committee on Commerce of the House of Representatives a report that shall consider, among other things—

(A) the public health need, if any, for inclusion of device investigations within the scope of the registry requirements set forth in subsection (j) of section 402 of the Public Health Service Act; and

(B) the adverse impact, if any, on device innovation and research in the United States if information relating to such device investigations is required to be publicly disclosed.

SEC. 809. APPLICATION OF FEDERAL LAW TO THE PRACTICE OF PHARMACY COMPOUNDING.

Section 503 (21 U.S.C. 353) is amended by adding at the end the following:

''(h)(1) Sections 501(a)(2)(B), 502(f)(1), 502(l), 505, and 507 shall not apply to a drug product if—

''(A) the drug product is compounded for an identified individual patient, based on a medical need for a compounded product—

''(i) by a licensed pharmacist in a State licensed pharmacy or a Federal facility, or a licensed physician, on the prescription order of a licensed physician or other licensed practitioner authorized by State law to prescribe drugs; or

''(ii) by a licensed pharmacist or licensed physician in limited quantities, prior to the receipt of a valid prescription order for the identified individual patient, and is compounded based on a history of the licensed pharmacist or licensed physician receiving valid prescription orders for the compounding of the drug product that have been generated solely within an established relationship between the licensed pharmacist, or licensed physician, and—

''(I) the individual patient for whom the prescription order will be provided; or

''(II) the physician or other licensed practitioner who will write such prescription order; and

''(B) the licensed pharmacist or licensed physician—

''(i) compounds the drug product using bulk drug substances—

''(I) that—

''(aa) comply with the standards of an applicable United States Pharmacopeia monograph; or

''(bb) in a case in which such a monograph does not exist, are drug substances that are covered by regulations issued by the Secretary under paragraph (3);

''(II) that are manufactured by an establishment that is registered under section 510 (including a foreign establishment that is registered under section 510(i)); and

''(III) that are accompanied by valid certificates of analysis for each bulk drug substance;

''(ii) compounds the drug product using ingredients (other than bulk drug substances) that comply with the standards of an applicable United States Pharmacopeia monograph and the United States Pharmacopeia chapter on pharmacy compounding;

''(iii) only advertises or promotes the compounding service provided by the licensed pharmacist or licensed physician and does not advertise or promote the compounding of any particular drug, class of drug, or type of drug;

''(iv) does not compound a drug product that appears on a list published by the Secretary in the Federal Register of drug products that have been withdrawn or removed from the market because such drug products or components of such drug products have been found to be unsafe or not effective;

''(v) does not compound a drug product that is identified by the Secretary in regulation as presenting demonstrable difficulties for compounding that reasonably demonstrate an adverse effect on the safety or effectiveness of that drug product; and

''(vi) does not distribute compounded drugs outside of the State in which the drugs are compounded, unless the principal State agency of jurisdiction that regulates the practice of pharmacy in such State has entered into a memorandum of understanding with the Secretary (based on the adequate regulation of compounding performed in the State) that provides for appropriate investigation by the State agency of complaints relating to compounded products distributed outside of the State.

''(2)(A) The Secretary shall, after consultation with the National Association of Boards of Pharmacy, develop a standard memorandum of understanding for use by States in complying with paragraph (1)(B)(vi).

''(B) Paragraph (1)(B)(vi) shall not apply to a licensed pharmacist or licensed physician, who does not distribute inordinate amounts of compounded products outside of the State, until—

''(i) the date that is 180 days after the development of the standard memorandum of understanding; or

''(ii) the date on which the State agency enters into a memorandum of understanding under paragraph (1)(B)(vi),

whichever occurs first.

''(3) The Secretary, after consultation with the United States Pharmacopeia Convention Incorporated, shall promulgate regulations limiting compounding under paragraph (1)(B)(i)(I)(bb) to drug substances that are components of drug products approved by the Secretary and to other drug substances as the Secretary may identify.

''(4) The provisions of paragraph (1) shall not apply—

''(A) to compounded positron emission tomography drugs as defined in section 202(jj); or

''(B) to radiopharmaceuticals.''.

The Senate proceeded to consider the bill.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

AMENDMENT NO. 1130

(Purpose: To provide a complete substitute)

Mr. JEFFORDS. Mr. President, I send a modification of the committee amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Vermont [Mr. JEFFORDS] proposes an amendment numbered 1130.

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

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

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

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Will the Senator yield?

Mr. JEFFORDS. I certainly yield to the majority leader.

Mr. LOTT. Mr. President, this will be just very brief. I know you have your statements. Senator KENNEDY has another event at 3 or 4 that he may attend. I have a conflict with other events, too.

CLOTURE MOTION

Mr. LOTT. Mr. President, I send a cloture motion to the desk and ask the clerk to report.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the substitute amendment to Calendar No. 105, S. 830, the FDA reform bill:

Trent Lott, James M. Jeffords, Pat Roberts, Kay Bailey Hutchison, Tim Hutchinson, Conrad Burns, Chuck Hagel, Jon Kyl, Rod Grams, Pete Domenici, Ted Stevens, Christopher S. Bond, Strom Thurmond, Judd Gregg, Don Nickles, and Paul Coverdell.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, the amendment that I sent to the desk is a modification of the committee amendment, and it is the amendment we desire to move forward on.

The PRESIDING OFFICER. Amendment No. 1130 is a modification of the committee substitute, and cloture has been filed on that amendment.

Mr. JEFFORDS. Thank you, Mr. President.

First, filing a cloture motion sort of indicates a serious situation which requires its action. I am pleased to report that I am more optimistic now than I have been at any time that a vote will not be necessary to have cloture and that we are all working very long and hard upon resolving the remaining questions. The most difficult one that we were facing appears to be resolved. So it is my firm belief that by the time we come before this body again, other than today's debate, we will have an opportunity to expeditiously pass an FDA bill for the Food and Drug Administration to ensure that we have it passed in time to prevent the problems which might occur by failing to do so.

Legislation to reform and modernize the Food and Drug Administration has been under consideration by Congress for over 3 years. At least six hearings have been held over the past 2 years in the Senate.

Last year, our measure was reported out of committee but never reached the floor for full consideration. This year, we have held hearings and worked through months of negotiations with my colleague from Massachusetts and with the administration.

S. 830 passed out of the Labor Committee on a vote of 14–4, a strong statement as to the bipartisan support this moderate measure enjoys. Last week we had a vote on the motion to proceed, and the vote was 89–5 that we begin consideration of this measure. We are here today to do that. The Senate spoke loud and clear last week: ''Let's move on the bill. Let's consider amendments. And let us vote.'' We have now had over 15 hours of debate on this measure stretching back to before the August recess.

Most recently, we spent a good part of Friday and Monday debating essentially 6 pages out of the 152-page bill. The time to move forward on this measure is now. I urge Senators to examine this measure, and I believe they will agree with me that it provides moderate, incremental but important improvements to the FDA while continuing the agency's ''gold standard'' of public safety.

I have never worked harder on a bill, and I say the same for the members of the committee, than we have on this one. The number of hours that have been spent bringing about consensus is incredible. I thank my ranking member and our staff for their cooperation and for placing us in a position where I believe we can expeditiously pass this next week without the necessity of having to invoke cloture.

So at this point, Mr. President, I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, as I have on other occasions, I pay tribute to my friend and colleague from Vermont, Senator JEFFORDS, who has been shepherding this very complicated but enormously important health policy issue through the Senate. As he has correctly stated, there has been broad agreement on a number of the very important aspects of the bill that relate to the drug and medical device provisions.

We have made considerable progress on one other aspect of the legislation, and that deals with an amendment which was added by the Senator from New Hampshire, which I will address momentarily. There are still some very important issues that are still being considered by Members. All of us are hopeful that we will have a positive outcome, but we are not quite there yet.

Mr. President, just on another item, I want to identify myself with the excellent remarks of my friend and colleague from Iowa, Senator HARKIN, on the vote that was taken just an hour or so ago about the block granting of various education programs.

I think all of us have understood that the role of the Federal Government is very limited in terms of its help and assistance to local communities in terms of education. We have a much more profound responsibility in the areas of higher education. But our responsibilities in the elementary and secondary education respects that education is a local function but also an important State responsibility.

That is why for every dollar that is expended, only about 6 cents of that dollar really comes from the Federal Government. The targeting of those programs has been in the areas where there has been, as he pointed out and others have recognized, general recognition nationwide of very important national objectives, and that is with the most disadvantaged students, primarily in the areas of basic skills—basic skills—math and science programs in the title I programs across this country, the neediest children in the most disadvantaged areas. It is a very important program. It has been evaluated, has had broad support. That is one of the very important areas.

There have been adjustments about what programs will be in and what programs will be out, but you cannot get away from the fact that these programs that have been included are targeted and by and large go to local communities where there is wide discretion. If you take the Goals 2000, 90 percent of that fund is spent at the local level. You can't get any more in terms of local control than what we have at the present time.

You find that there is 2 percent administrative costs by the Department of Education in the overall programming, 6 percent at the State level of all of these various programs. A great percent of that 6 percent is technical assistance, goes to local communities that are trying to deal perhaps with special-needs children. Maybe it is a small community that has two or three members of a class that have special needs. They do not develop a whole program, but there are other schools, other school districts that have similar kinds of needs.

This technical assistance helps and assists those local communities: the School to Work Program has had strong bipartisan support—we still remember the strong Republican support to try to help young people move from school into the employment programs and into employment—the drug-free schools to try to do something about the problems of drug addiction and violence in our various school districts.

Now, we do not know. There is no accountability in this particular program. There is no requirement for reporting on how the money is expended. It bypassed even the States, so the States will not have an understanding of how these resources are going to be spent. We do not know which States

are going to be advantaged, which disadvantaged or communities advantaged or disadvantaged.

So I join in expressing strong reservations. I want to say very clearly that if this comes back, this particular provision, we are going to take some time on the floor of the U.S. Senate to really make sure that not only every Member of this body understands it but all Americans understand it. If the local States want to expend additional resources, let them go out and tax their local communities to do so. If they want it, let them do it. But if we are going to commit ourselves to trying to raise resources to meet targeted needs for the neediest children in this country, we ought to be able to do it. If you are going to take that and block grant it and send it back to the States and just use the Federal tax system to raise these funds, that ought to be done in a different forum. We will have a longer time to debate it if it comes back. But we should not permit a vote in support of the general appropriations to go by without some comment.

Now, Mr. President, I am pleased that we have achieved an important compromise on one of the most important issues in the FDA reform legislation, the issue of Federal preemption of State regulation of over-the-counter drugs and cosmetics.

I compliment Senator GREGG, Secretary Shalala, and others involved in working out this responsible agreement. It will assure that States have the ability to step in to protect consumers from cosmetics when necessary while also providing companies reasonable guarantees that when the FDA has acted effectively to protect consumers, they will not be subjected to conflicting and potentially duplicative labeling requirements.

Under the agreement, the Federal Government will not preempt State regulation of the safety of a cosmetic. This is appropriate. If a State feels strongly enough about a particular ingredient or a product to ban it or to take similar actions, it should be free to do so. States virtually never use this authority. But even though it is rarely used, it should be preserved.

In the critical realm of packaging and labeling where States have been most active in ensuring consumers receive the information they need to protect themselves, this amendment strikes a fair balance. The reason preserving States' ability to act is so important is that FDA regulation has been weak. Under this agreement, States would continue to have the ability to act to protect their consumers except in those cases where the FDA has already taken appropriate action in a specific area.

The compromise reached in section 762, which relates to the preemption of the State regulation for the packaging and labeling of cosmetics, will assure that the States retain full authority to regulate cosmetics in those circumstances when the FDA has not acted. As you know, I think it is essential for the States to be able to regulate the labeling and packaging of cosmetics whenever the FDA has not acted. This is especially important because there is so little FDA regulation in the area of cosmetics.

Section 762 would preempt a State labeling and packaging requirement only when FDA has specifically acted on the same aspect of the labeling or packaging of that cosmetic. Thus, if FDA issues a regulation that requires cosmetic manufacturers to include a specific warning about an aspect of an ingredient in a cosmetic, a State cannot require a different warning about the same aspect of that ingredient.

For example, if the FDA required a warning label for a particular product regarding its use by pregnant women, the State would be prohibited from requiring a different warning label for the same hazard and product. On the other hand, where the FDA has not taken action, the States would be free to fill the gap. So, if we are going to breathe new life into the FDA to take on more and more kinds of responsibilities to assure the public in terms of some of these health hazards, as a result of the debates we have had in the past days, they are free to do so.

On the other hand, if a State wants to require a warning on a cosmetic and FDA has not acted, the State can require that warning. For example, Minnesota has required a caution statement on flammable products. This provision would not preempt that requirement because FDA has not acted.

Similarly, if FDA requires a warning about a specific ingredient contained in a cosmetic, ingredient A, and a State wants to require a warning about another ingredient in the same cosmetic, ingredient B, the State would not be preempted. Likewise, if FDA requires a warning about a certain aspect of an ingredient for example, ingredient A causes cancer, a State can require a warning about a different aspect of the same ingredient for example, ingredient A causes birth defects. The bottom line is that the States are preempted only when FDA has acted on the same ingredient and the same health concern.

Finally, this provision does not in any way affect the State's ability to regulate the safety of cosmetics. Thus, if FDA has a specific labeling requirement for a cosmetic ingredient about a particular concern, the State may take additional steps, such as a ban on the ingredient, to protect the public health, although the State cannot require additional labeling about the concern for that ingredient.

This may very well be an invitation to give the FDA the authority and the resources to adequately regulate cosmetics, but if they do not do it, which is the condition today, we are not going to be interfering with the States. That is very, very important.

The debate on this issue has highlighted the potential hazards that cosmetics pose to consumers, especially women, which are too often underestimated.

A study by the respected, nonpartisan General Accounting Office reported that more than 125 ingredients available for use in cosmetics are suspected in causing cancer. Other cosmetics may cause adverse effects on the nervous system, including convulsions. Still other ingredients are suspected of causing birth defects. And a carefully controlled study found that 1 in 60 users suffered a cosmetic-related injury identified by a physician.

The fact is, Mr. President, there are enormous numbers of new compounds, an enormous expansion of the use of various products, including toxic products, that are being utilized in cosmetics. We want to make sure that the States, through their own public health agencies or through various studies or through their research, are going to be able to raise health concerns necessary to protect their consumers.

Mr. President, we have outlined at other times on the floor various items which raise some important concerns—alpha-hydroxy acid, feminine hygiene products, and talcum powder. We have heard from Dr. Wallinga, a physician at the Natural Resource Defense Council. He points out the dangers of these products citing studies in prestigious medical journals.

We have in this compromise preserved the right of the States to protect the public.

We have seen recently the impact of State laws on public health. In California, for example, action has been taken against Grecian Formula and toluene in nail polish.

We also know of other States that have introduced legislation aimed at further regulation of cosmetics. New York, for example, is pursuing expiration dating of certain cosmetics. Ohio and Texas are also considering additional regulation of cosmetics. My own State of Massachusetts is pursuing a consumer right-to-know law similar to that in California.

Nothing in this legislation will infringe upon these or similar activities by the States to protect the public.

The agreement we have reached today is a very reasonable one. I commend Senator GREGG for his hard work in making it a reality. The fact is neither the Food and Drug Administration nor the States are doing enough to protect women from the dangers posed by cosmetics. This issue deserves to be a high priority. I intend to see that it is.

Mr. President, regarding remaining issues in the legislation, I hope we can have the same hard work and accommodation in addressing these issues before we turn to the legislation. They deal with important questions about the procedures of the Food and Drug Administration in reviewing medical devices. We want to make sure that the medical devices that are going to be used on the American public are safe

and effective. We want to make sure that FDA reviewers look at data on the use of a medical device that is clearly indicated by the technical design of the device—whether or not it is on the label. Under the current language, FDA would be unable to make a complete review of the device. The public would be deprived of assurances they have today that devices are truly safe and effective. We talked about this previously on the floor of the U.S. Senate. We will have further opportunity to address this issue. It is an extremely important one.

A second item we hope to address is ensuring that FDA can consider certain manufacturing practices that produce an unsafe product in clearing a medical device for marketing. The language requires FDA to allow a new device on the market even if the manufacturer is producing defective devices. This provision endangers the public health by putting unsafe products on the market. It also requires the Food and Drug Administration to spend its resources chasing after unsafe medical devices already on the market rather than simply requiring that the device be produced safely in the first place.

These are important items and in my full statement, to a considerable degree, I expand on them.

There are environment considerations, the effective removal of the environmental impact statements under NEPA. I do not remember considering this provision as part of our hearings on this legislation. I do not feel that we should start taking various agencies and exempting them from considering the environmental impact of their actions. I think this is an issue that we should address.

My colleagues have raised other questions in terms of the ethical issues that surround the payment of third party reviewers. These individuals are going to be reviewing products that are manufactured by the same companies that are paying them. This raises important ethical issues. I will have an opportunity to debate and take action on some of those.

I thank very much, Mr. President, the chairman of the committee, for his continued cooperation, and the other Members for their help and assistance. I am particularly grateful to Senator GREGG for his cooperation in helping us work out a satisfactory resolution of the amendment on cosmetics.

Consumers have suffered painful, permanent injuries from hair treatment products that have caught fire. They have suffered serious urinary tract infections from bubble bath. They have suffered life-threatening allergic reactions to hair dyes, and severe chemical burns from skin creams and sun tan lotions. The GAO concluded that ''cosmetics are being marketed in the United States which may pose a serious hazard to the public.''

And these are only the acute injuries that require immediate medical care. The poisons in cosmetics can also cause long-term injuries and illnesses that do not develop for years after exposure.

Three specific products highlight the risks consumers face. Alpha-hydroxy acid is one of the hottest selling cosmetic products on the market, with sales of roughly a billion dollars a year. It is sold to erase fine lines and tighten the skin. FDA has received numerous complaints of adverse effects from the use of these products. Alpha-hydroxy acids have been linked to severe redness, burning, blistering, bleeding, rash, itching, and skin discoloration. Most troubling, there is concern that alpha-hydroxy may promote skin cancer by increasing sensitivity to sun exposure. Yet these products are in the marketplace—with no warning labels and no limits on the concentrations that may be sold. Under this bill, every State would be prohibited from requiring these sensible warnings.

I ask unanimous consent that I may put a fact sheet laying the issues on alpha-hydroxy in the RECORD.

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

WHO WILL ACT TO PROTECT THE PUBLIC FROM HAZARDOUS PRODUCTS IN COSMETICS IF S. 830 PASSES? NO ONE WILL!

(Statement of David Wallinga, MD, MPA, Senior Scientist, Public Health Program, Natural Resources Defense Council, September 10, 1997)

People often assume that government is there to protect them. They figure that if a consumer product is sold at the corner drug or department store, it must some passed some sort of regulatory scrutiny. People would especially like to believe that cosmetics—the products they put on their hair, lips, faces and underarms each day—have been adequately tested and found to be safe.

They couldn't be more wrong. As a physician, I couldn't believe it when it first learned how powerless the Food and Drug Administration is to regulate cosmetics in a way that ensures their safety. FDA's lack of regulatory authority is based on a law from 1938—a time when scientists knew very little about the potential health effects of the chemicals found in cosmetics. This law only lets FDA act if a cosmetic has been adulterated or misbranded. What's even more amazing is that the law has absolutely no requirement that cosmetic products be tested for safety.

That means the thousands of chemicals currently found in cosmetics: Do not have to be tested to see if they are absorbed through the skin and in the blood; do not have to be tested to see if the cause cancer; do not have to be tested to see if they cause allergies or infections; do not have to be tested for effects on the brain or nervous system; do not have to be tested to see if they affect fertility or the reproductive organs; and do not have to be tested for their effects on infants and children, who can be more susceptible to the toxic effects of certain chemicals.

It is outrageous that products which people put on their faces, their underarms and other parts of their body each day are not even adequately tested for safety. Testing of the pesticide in your dog's flea collar is more extensive than that for cosmetics. This, despite the fact that cosmetics are often used by pregnant women, and women of reproductive age. Since many chemicals in cosmetics are fat-soluble, or are organic solvents, it means they can penetrate the skin—and possibly enter the fetus where they may cause reproductive harm.

It gets worse. The Senate is now proposing to strip the states of much of their regulatory authority over cosmetics as well. In particular, the Senate would limit the states ability to provide consumers with product warnings and other information, including adequate labeling. This will extend FDA's ignorance about potentially-toxic cosmetic products to consumers. It will also strip consumers of their only conceivable protection against these products. In this regulatory magic act, science will have been frozen solid. FDA is already frozen into the science of the 1930s; now, we are freezing out states from acting on any new scientific information. This might be great news for a $20 billion dollar-a-year industry, but its pretty lousy news for public health.

Each year, around 1000 new cosmetic products enter the consumer market. In perfumes and fragrances alone, there are at least 1500 different chemicals. How many of these are safe? No one knows. But because of the FDA's impotence, it is certain that the vast majority have not been broadly tested for health effects, and are not well understood from a scientific standpoint.

There are some cosmetics, however, whose safety we already have good reason to question. Skin-peeling creams, for example, are extremely popular. But they contain alpa-hydroxyacids which have been shown to greatly increase the skin's susceptibility to ultraviolent light. Someone who has used one of these creams recently would want to be careful about sun exposure, to prevent sunburn and avoid the increased risk of skin cancer. How will the consumer know to use sun screen or avoid sun exposure after using these creams? The short answer is, they won't.

FDA not only lacks the authority to require safety testing, it also has very weak authority to require product labels that reflect health and safety concerns about cosmetics. Even worse, the proposed bill would deny individual states the authority to require such labels. It doesn't seem like much to ask: a label that would tell people to avoid sun or use sunscreen. It's not a product ban, it's not changing the formulation . . . it's just an advisory label. But it will be forbidden by this law. We will instead just have to hope that industry voluntarily labels its products so that people use them correctly.

There's more. In medicine we know about a disease called ''talcosis'' which occurs from inhaling talcum powder. Mostly, that's a problem in talc workers. But what about a recent study from Yale University, a study that confirmed earlier research finding an association between the use of talcum powder on the genital region and ovarian cancer in women? Scientists have shown that talc particles can enter the body and accumulate in ovarian tissue. There, they are associated with a 40% increased risk of ovarian cancer. Ovarian cancer is hard to diagnose, hard to treat effectively, and is often fatal. It is something which is much better to prevent than to try and treat once it occurs. Yet if a state wanted to notify women that talcum powder should not be used regularly in the genital region, that would be illegal under this new law.

These are only two examples of the many, many potential hazards from the thousands of chemicals in cosmetic products. There are more: hair dyes and shampoos which contain coal tars which are known to cause cancer; feminine hygiene products associated with infertility, ectopic pregnancy, and an increased risk of pelvic inflammatory disease; lipstick and hair dyes which contain lead,

used by pregnant women, and particularly dangerous for fetuses; and numerous products which contain immune system sensitizers, such as cinnamates, which can cause severe allergic reactions, skin rashes, or asthma.

Currently, we have an empty law regulating these cosmetics, a law directing the FDA into empty regulation. Until we have a better system in place at the federal level, we should certainly not interfere with the right of states to act on these hazards, and to protect the health of their citizens, independently. Our best hope as consumers, as patients, and as health care professionals, is to let states fill this regulatory gap.

FACT SHEET: FDA REFORM BILL AND PREEMPTION OF COSMETIC REGULATION BY THE STATES

The regulation of health and safety has traditionally rested in the hands of the States.

Cosmetics pose substantial threats to the health and safety of consumers.

There is no substantial Federal regulatory presence in cosmetics (see below), but proposed cosmetic preemption would completely bar the States from exercising their traditional regulation of cosmetic labeling, packaging and consumer information and would severely limit states ability to regulate these products in other ways.

BACKGROUND

Traditionally, preemption only takes place in areas where the Federal government has a strong presence, or has ''occupied that field.''

FDA currently employs less than 30 people to regulate the $20 billion cosmetics industry. Only 2 employees actually regulate cosmetic packaging and labeling.

FDA has no authority to approve cosmetic products or review ingredients, require companies to register, or to even report cosmetic-related injuries.

Nor can FDA require products be tested for safety or the results of safety testing be made available to the FDA or the public. It has no legal access to manufacturers' records. Nor can it require a product recall—cosmetic recalls are voluntary.

The basic Federal law regulating cosmetics has not been amended since 1938.

A 1978 General Accounting Office (GAO) study found that more than 125 cosmetic ingredients were suspected of causing cancer. Twenty ingredients were believed to cause central nervous system disorders, ranging from headaches and drowsiness to convulsions. Twenty-five were believed to cause birth defects The industry adds approximately 1,000 new chemicals annually, with no requirement to show that these chemicals are safe.

The GAO concluded that ''cosmetics are being marketed in the United States which may pose a serious hazard to the public'' and recommended that additional Federal authorities be granted to FDA to protect the public.

S. 830 AND STATE PREEMPTION

There is no public record, hearings, testimony, studies or otherwise, from the 104th or 105th Congresses which substantively addresses the issue of cosmetic preemption.

The cosmetics preemption provision was not in the Chairman's original mark, nor was it subject to hearings.

States will be completely barred from regulating cosmetic labeling and packaging under S. 830. States will also be barred from establishing any requirements for communicating the safety and effectiveness of a drug or cosmetic to the public.

States will also be barred from other forms of safety regulation if the Federal government has acted in that area, even if the Federal regulation is outdated, narrow, or vague.

The industry cannot cite one example of a burdensome state regulation that this law preempts.

OTHERS OPPOSED TO S. 830 PREEMPTION PROVISION

The Administration position states, ''if the bill were maintained in its present form, and the outstanding issues were not addressed, I would be forced to recommend to the President that he veto this legislation.''

A broad coalition of state officials, women's organizations, environmental advocates, and others concerned about public health opposes this provision (see attached letters)

EXAMPLES OF COSMETIC INJURIES

A six year old girl in Oakland, California had her mother apply a hair product to her head, which resulted in second degree burns to the child's ears and neck.

A 59-year old California woman almost died from an allergic reaction to hair dye.

A 47-year old woman had her cornea destroyed by a mascara wand.

Still another woman's hair caught fire as the result of an inflammable hair treatment gel.

In fact, a carefully controlled three month study found that one in 60 users of cosmetics experienced adverse reactions.

DANGERS OF WIDELY USED PRODUCTS

The attached fact sheets highlight possible dangers from three widely used cosmetic products: skin creams containing alpha-hydroxy products—skin irritation and burns, long-term risk of skin cancer associated with greater sun sensitivity; feminine hygiene products—pelvic inflammatory disease, ectopic pregnancy, and infertility; and talc and talcum powder—ovarian cancer.

INTERNATIONAL STANDARDS

The European Union requires full ingredient listing on packaging, documentary proof of good manufacturing practice and similar proof that extensive testing has been carried out.

FACT SHEET: HAZARDS OF SKIN CARE PRODUCTS CONTAINING ALPHA-HYDROXY

WHAT ARE ALPHA-HYDROXY ACIDS?

Alpha-hydroxy acids are naturally occurring acids that have recently been included in skin care products. Alpha-hydroxy products promise to erase wrinkles and acne, restore skin elasticity and firmness, and produce younger-looking, smoother skin. They are used both in skin creams intended for daily use and ''skin peels'' that are sometimes described as chemical face lifts.

Products containing alpha-hydroxy acids working by penetrating the upper-layer of skin, breaking apart the bonds that hold the skin cells together. The skin then sloughs off these cells.

Alpha-hydroxy products include Avon Anew Face Cream, Ponds' Age Defying Complex, Alpha Hydrox Face Cream, Murad, and MDForte.

Products containing alpha-hydroxy acids are among the hottest-selling cosmetics, used by millions of women, with sales of roughly a billion dollars a year.

WHAT ARE THE CONCERNS ABOUT COSMETICS CONTAINING ALPHA-HYDROXY ACIDS?

There is very little data on the effects of alpha-hydroxy acids. Researcher suggests that they can cause skin irritation and increased sensitivity to UV radiation, with the potential for increasing risk of skin cancer. There have been no long-term studies of the safety of the product.

FDA reported that between 1989 and 1996, there were likely ''many thousands'' of complaints associated with alpha-hydroxy acids, including ''severe redness, swelling (especially in the area of the eyes), burning, blistering, bleeding, rash, itching, and skin discoloration. Many of the products involved are the lower concentration, mass market products.'' (February 23, 1996 letter from Dr. John E. Bailey (Acting Director, Office of Cosmetics and Colors, FDA) to Dr. F. Alan Andersen (Scientific Coordinator and Director, Cosmetic Ingredient Review). At least one major manufacturer has discontinued one of its alpha-hydroxy products because of the high volume of complaints.

In fact, FDA was sufficiently concerned about alpha-hydroxy acids that it designated them as their highest priority for review by the National Toxicology Program—a rare occurrence for a cosmetic.

A June 1997 report sponsored by the cosmetics industry found that more study is needed to determine if the use of alpha-hydroxy acids to remove the epidermis causes the skin to be more UV sensitive and increasingly susceptible to skin cancer. In the meantime, the report noted that ''some steps should be taken to minimize the potential that use a alpha-hydroxy acid ingredients would result in increased sun sensitivity. Accordingly, the Expert Panel admonished producers of leave-on cosmetics containing alpha-hydroxy acid ingredients to either formulate to avoid increasing sun sensitivity or to provide directions for use that include the daily use of sun protection.'' (Final Report: June 6, 1997 Cosmetic Ingredient Review, pg. 131). The report also made safety recommendations regarding maximum acceptable levels for alpha-hydroxy acids in both products for daily use and products used for skin peels by cosmeticians or health professionals.

There are no binding requirements assuring that manufacturers abide by the safety recommendations of the advisory committee with regard to tolerance levels or provide any safety information on the product. Manufacturers' packaging typically includes no warnings on the need to use sunscreen in conjunction with use of the product, no warning on the potential danger of skin cancer from use of the product, no information on risks of skin damage or irritation. Nor are the manufacturers required to list on the package the concentration of alpha-hydroxy acids in the product, or inform users if the other ingredients strengthen or weaken its effectiveness.

Under S. 830, States would be prohibited from requiring warning labels or other consumer information about alpha-hydroxy acids.

FACT SHEET: ADVERSE HEALTH EFFECTS OF FEMININE HYGIENE PRODUCTS

Over one third of all women regularly use feminine hygiene products—generating roughly $100 million a year in sales.

These products have been shown to cause upper reproductive tract infections, pelvic inflammatory disease, ectopic pregnancies and infertility in women.[1]

Analyses has shown that use of these products increased the overall risk of pelvic inflammatory disease by 73% and the risk of ectopic pregnancy by 76%.[2]

The current literature also suggests an increased risk in cervical cancer.[3]

Researchers at University of Washington, Brigham and Women's Hospital, Harvard Medical School, Mount Sinai School of Medicine and Centers for Disease Control and Prevention have all published data regarding the adverse effects of feminine hygiene products.[4]

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[1] Footnotes at end of factsheet.

The National Women's Health Network testified that the FDA needs to do more to educate women and recommended that feminine hygiene product labeling information on their severe adverse effects.[5]

Under S. 830, States would be prohibited from requiring warning labels or other consumer information on feminine hygiene products.

FOOTNOTES

1. J Zhang, AG Thomas, and E Leybovich. ''Vaginal douching and adverse health effects: a meta-analysis.'' *American Journal of Public Health*. 1997 Jul; 87(7): 1207–1211.
2. Ibid.
3. Gardner JW, KL Shuman, ML Slattery, JS Sanborn, TM Abbott, and JC Overall Jr. ''Is vaginal douching related to cervical carcinoma?'' *American Journal of Epidemiology*. 1991 Feb; 133(4): 368–375.
4. Baird DD, CR Weinberg, LF Voight and JR Daling. ''Vaginal douching and reduced fertility'' *American Journal of Public Health* 1996 June: 86(6):844–850. Kendrick JS, HK Atrash, LT Strauss, PM Garguiullo and YW Ahn. ''Vaginal Douching and the risk of ectopic pregnancy among black women.'' *American Journal of Obstetrics and Gynecology*. 1997 May; 176(5):991–997. Onderdonk AB, ML Delaney, PL Hinkson and Am DuBois. ''Quantitative and qualitative effects of douche preparations on vaginal microflora.'' *Obstetrics and Gynecology*. 1992 Sept; 803 Pt 1):333–8.; Phillips RS, RE Tuomala, PJ Feldblum, J Schachter, MJ Rosenberg, and MD Aronson, ''The effects of cigarette smoking, Chlamydia trachomatis infection, and vaginal douching on ectopic pregnancy.'' *Obstetrics and Gynecology*. 1992 Jan; 79(1): 85–90, and Zhang J, p 1207–1211.
5. Cox, Lisa. National Women's Health Network testimony before FDA Nonprescription Drugs Advisory Committee hearing, 15 Apr 1997.

FACT SHEET: TALC MAY POSE A RISK OF OVARIAN CANCER

Talc, or talcum powder, is widely used in popular bath and cosmetic products, and is applied directly to the body, typically after bathing. Common products with talc include baby powders and sanitary napkins.

A relationship between talc exposure and ovarian cancer has been investigated by a number of prominent epidemiologists and physicians for years.

A recent study by the Yale School of Public Health confirmed that talc exposure may lead to an increased risk of developing ovarian cancer.[1]

Dr. Harvey Risch in the Yale study, states that, ''Several lines of evidence support the argument for an association between talc usage and ovarian carcinoma.''[2]

In the United States, approximately 26,000 women develop ovarian cancer annually.[3]

Due to its chemical similarity to asbestos, talc has long been suspected as a lung and ovarian carcinogen.[4]

A technique used to extract ovarian tumor material found talc particles in approximately 75% of ovarian tumors examined. Subsequent evaluations have appeared to support the contention of an association between talc exposure and ovarian carcinoma.[5]

The Cancer Prevention Coalition has submitted a citizen's petition to FDA expressing their concern about the possible health risks posed by talc and requested the agency establish regulations to require carcinogen warning labels on cosmetics containing talc as an ingredient.

Under S. 830, States would be prohibited from requiring warning labels or other consumer information about the possible hazards of talc.

FOOTNOTES

1. Chang, Stella and Risch, Harvey. ''Perineal Talc Exposure and Risk of Ovarian Carcinoma,'' *Cancer*. Vol. 79, No. 12, June 15, 1997.
2. Ibid.
3. Ibid.
4. Herbst AL. ''The Epidemiology of Ovarian Carcinoma and the Current Status of Tumor Markers to Detect Disease,'' *American Journal of Obstetrics and Gynecology*. Vol. 170, 1994.
5. Hederson, WJ, et al. ''Talc and Carcinoma of the Ovary and Cervix,'' *Journal of Obstetrics and Gynecology for the British Commonwealth*. Vol. 78, 1971.

[1] Footnotes at end of factsheet.

Mr. KENNEDY. Mr. President, a critical point is that an industry-appointed panel itself set out safety tolerance levels for use of the product with regard to short-term effects and warned that the product should not be used without sunscreen. Yet, there is absolutely no binding requirement that manufacturers follow these recommendations—and virtually none of the products carry the information or warnings developed by the industry's own committee that would enable consumers to help protect their own safety. And, in point of fact, there has been no truly independent evaluation of the work of the industry panel. In fact, the FDA is so concerned about the safety of alpha-hydroxy acid that it has chosen it has its top priority for review by the prestigious National Toxicology Program.

A second example is feminine hygiene products, which have sales of $100 million a year. More than one-third of women use them—but they pose serious health hazards. They have been shown to cause upper reproductive tract infections, pelvic inflammatory disease, ectopic pregnancies, and infertility. They may place women at additional hazard for cervical cancer. Women using these products should have the right to warning labels informing them of these hazards. But the FDA has done little to protect or warn women against these dangers.

There are a substantial number of studies on the safety of these products. The evidence that they are dangerous seems incontrovertible—but this legislation would prevent States from acting to simply warn women of the dangers. How outrageous it is that women should face illness and sterility without being warned of the danger of a seemingly harmless and beneficial product.

A third example is talc, or talcum powder is widely used in popular bath and cosmetic products. But it is chemically similar to asbestos, and it has long been suspected of causing cancer. A number of studies have suggested the possibility of a link to ovarian cancer, which afflicts 26,000 women annually—but there are no warning labels on these products. American women deserve better protection from their Government.

These three issues have been carefully analyzed by Dr. David Wallinga, a physician and the senior scientist at the Natural Resources Defense Council. He points out the dangers of each of these three products based on studies in prestigious medical journals from researchers at institutions like Yale and the Mount Sinai Hospital in New York. I ask unanimous consent to enter his comments in the RECORD, along with the articles analyzing these issues.

Federal oversight of this $20 billion industry today is extremely limited. The basic Federal law regulating cosmetics has not been updated since 1938. The FDA has less than 30 employees overseeing this huge industry—and only two employees dealing with the critical issues of packaging, labeling, and consumer warnings. The FDA has no authority to require manufacturers to register their plants and products. It cannot require manufacturers to file data on the ingredients in their products. It cannot compel manufacturers to file reports on cosmetic-related injuries. It cannot require that products be tested for safety or that the results of safety testing be made available to the agency. It does not have the right of access to manufacturers' records. It cannot require recall of a product.

In the Federal Food, Drug and Cosmetic Act there are 126 pages devoted to the regulation of drugs and devices; 55 pages are devoted to foods regulation. A full eight pages of the act is dedicated to definitions. But less than two pages are devoted to cosmetic regulation.

In 1938, there was no requirement that industry show safety of drugs, medical devices, food additives, or cosmetics before they were marketed. Today, the public demands higher standards of protection, and they have been established for drugs, for medical devices, and for food additives—but not for cosmetics.

The agreement we have reached today is a highly reasonable one. I especially commend Senator GREGG for his hard work to make it a reality. But the fact is that neither the FDA and the States are doing enough to protect women from these dangers. This is an issue that deserves a higher priority, and I intend to do all I can to see that it gets it.

There are important remaining issues in this legislation, and I hope that with the same hard work and spirit of accommodation we can reach agreement on these issues before we return to consideration of this legislation on Tuesday.

Two changes in the regulation of devices in particular put consumers at unacceptable and unnecessary risk. They should be removed in this bill before it goes forward—and the administration has made it clear that they put the whole bill at risk of a veto.

A great deal of negotiation has taken place on the medical device provisions of this bill, and I compliment Senator JEFFORDS, Senator COATS, and my other colleagues on the committee for resolving most of the device provisions in a way that is consistent with protection of the public health. But there are at least two medical device provisions in the bill which still raise substantial concerns. They could be corrected very simply and with negligible effect to the basic purpose and intent of this bill. Yet these corrections have not been made and my colleagues deserve a clear description of the hazards they pose.

A brief explanation of how the FDA regulates and clears medical devices for marketing may first be in order. Under current law, manufacturers of

new class I and class II devices can get their products onto the market by showing that they are substantially equivalent to devices already on the market. For example, the manufacturer of a new laser can get that laser onto the market if it can show FDA that the laser is substantially equivalent to a laser that is already on the market.

Similarly, the manufacturer of a new biopsy needle can get that biopsy needle onto the market by showing that it is substantially equivalent to a biopsy needle already on the market. And the manufacturer of new patient examination gloves can get those gloves onto the market by showing that they are substantially equivalent to patent gloves already on the market.

Mr. President, these manufacturers are obliged to demonstrate substantial equivalence to the FDA by showing that the new product has the same intended use as the old product and that the new product has the same technological characteristics as the old product. If the new product has different technological characteristics, these characteristics must not raise new types of safety and effectiveness questions in order for the product to still be substantially equivalent to the older product.

The logic of this process for bringing medical devices onto market is quite simple: if a product is very much like an existing product, it can get to market quickly. If it raises new safety or effectiveness questions, those questions should be answered before the product can be marketed.

This process for getting new medical devices on the market, commonly known as the 510(k) process, is considered by most to be the easier route to the market. Devices that are not substantially equivalent to a class I or class II device already on the market must go through a full premarket review. Thus, device manufacturers have an incentive to get new products on the market through the 510(k) process. And in fact, well over 90 percent of all new devices get on the market through the submission of a 510(k) application.

This legislation seriously compromises the FDA's ability to protect the public health through its regulation of medical devices that are marketed through the 510(k) process. Of the dozens of provisions that we have negotiated and discussed which affect medical devices in this bill, these two still raise fundamental public health problems. Although few in number, these provisions raise substantial risks to the public health which simply cannot be ignored.

The first problem raised by this bill relating to medical devices is its prohibition on the FDA from considering how a new device will be used if the manufacturer has not included that use in its proposed labeling.

You may think that this approach makes sense—why should the Agency consider the use of a device if the manufacturer has not specified that use on the label? I'll tell you why—because that proposed label may be false or misleading. How would the FDA know that? Because the design of the new device may make it perfectly clear that the new device is intended for a different use.

Let me provide my colleagues with a few examples. Let's talk about the biopsy needle I mentioned before, which is used on breast lesions. Most biopsy needles for breast lesions currently on the market take a tissue sample that is about the size of the tip of pencil lead. Let's assume the manufacturer of a new biopsy needle comes to the FDA with a 510(k) submission. But this new biopsy needle takes a tissue sample that is 50 times as big—the size of a 1-inch piece of a hot dog.

The manufacturer of this new needle has proposed labeling that says that the needle will be used like the old, marketed needles to biopsy breast lesions. But FDA knows that the chunk of tissue being biopsied will usually exceed the size of the lesion. This makes it clear to FDA—and to any impartial observer—that the new needle will in most cases be used to remove the lesion.

Under these circumstances the FDA should be able to ask the manufacturer to provide information on this new use. Is it safe to remove lesions? Does it really work? The bill, however, categorically bars FDA from asking these essential questions. This means that the FDA would be unable to make a complete review of the device and the public would be deprived of existing assurances that devices are truly safe and effective.

The proponents of this provision have argued that the FDA could simply say that the change in device design or technology—such as the change in size of the biopsy needle—renders the new product unequivalent to the old product. But that is not always true. The manufacturer could argue that there are no new questions of safety or effectiveness for the purpose claimed on the label. In the case of the biopsy needle, Mr. President, there are times where a large sample is needed—a sample larger than a pencil tip.

So long as the larger needle is safe and effective for removing a sample, FDA would still be barred from obtaining data about the new use of removing lesions—and to the extent the needle is used for the new use, women could be put at risk for an effective or unsafe treatment of breast cancer.

Another good example is surgical lasers. Lasers have been used for decades to remove tissue. Several years ago, a manufacturer added a side-firing mechanism to their laser to improve its use in prostate patients. While the manufacturer did not include this specific use in its proposed labeling, it was transparently clear that the new side-firing design was intended solely for this purpose of treating prostate patients.

As a result, FDA required the manufacturer to submit data demonstrating the laser's safety and effectiveness in treating prostate patients. This is precisely how the device review process should work. Manufacturers must prove their devices live up to their claims, while patients and doctors receive all of the information needed to make the best possible treatment choices.

But under this bill, FDA would be prohibited from getting adequate safety data on the laser's use on prostate patients—even though that would be the product's primary use. This defies common sense yet this is the result of one troubling and indefensible provision.

Other examples in the way that this provision could allow unsafe and ineffective devices abound. A stent designed to open the bile duct for gallstones could be modified in a way that clearly was designed to make it a treatment for blockages of the carotid artery.

Without adequate testing, it could put patients at risk of stroke or death. But under this bill, the FDA would be prohibited from looking behind the label to the actual intended use of the device. A laser to use to excise warts could have its power raised so that it was also possible to use it in smoothing facial wrinkles. But without FDA's ability to assure adequate testing, the use of the laser for this purpose could lead to irreversible scarring.

Most companies, of course, will not try to bypass the process in this way. But some bad actors will. And this legislation should not force the FDA to fight those bad actors with one hand tied behind it. This provision is like asking a policeman to accept a known armed robber's assurance that the only reason he is wearing a mask and carrying a gun is that he is going to a costume party.

The second way this bill undercuts the FDA's ability to protect the public health and adequately regulate medical devices is the way it forces the FDA to clear a new device for marketing even if the Agency knows that the manufacturer cannot manufacture a safe device.

Let me repeat that statement. It sounds frankly preposterous but it is true. One of the bill's provisions actually requires the FDA to allow a new device onto the market even if the manufacturer is producing defective devices. Surprisingly, the proponents of this provision freely admit that this is true.

Under current law, let's assume that a maker of new examination gloves submits a 510(k) to the FDA and claims that the new gloves are substantially equivalent to gloves already on the market. If the FDA knows for a fact from its inspectors that the company uses a manufacturing process that often results in these gloves having holes, FDA would simply not clear the gloves for marketing. FDA would find

that these gloves are not substantially equivalent to gloves on the market because gloves on the market don't have holes. That's common sense, and fortunately, that's also the law.

In contrast, this bill would force FDA to clear the gloves for marketing. At this point, these defective gloves would be sold to hospitals, clinics, and HMO's, where they will be used routinely by doctors, nurses, paramedics, and other health professionals every single day. Every single glove would expose these professionals needlessly to the risk of fatal blood-borne diseases like AIDS and hepatitis.

Here is the response of the provision's supporters. They argue that once these defective gloves are in the market and being used by health professionals, FDA can simply institute an enforcement action to remove them from the market. But when hundreds or thousands of defective devices have been distributed, and when dozens or hundreds of facilities may be using these devices, an enforcement action entails far more than blowing a whistle or picking up the phone to place a simple call.

In reality, the FDA must coordinate with the U.S. Attorney's office, the U.S. Marshal's Service and persuade the court of jurisdiction to issue the appropriate papers. As any attorney or law enforcement professional can tell you that this takes precious time. And in the case of a defective device which is exposing people to unnecessary risks, time is absolutely critical. The sooner a defective glove is pulled from the market, the sooner the public is protected.

But all this makes absolutely no sense when the FDA today can prevent this situation from ever arising. If this provision becomes law, the debater's point distinguishing between different forms of FDA authority will ultimately be paid for in the health and safety of American consumers placed at needless risk of death and injury. In fact, even the regulated industry is willing to compromise on this provision, because they recognize that it is so unreasonable.

So I hope we can continue to work to compromise these important devices issues over the weekend. We have been successful on so many other issues in this bill. These should be resolvable as well.

The last unacceptable element of this bill is an assault on basic environmental protections contained in the National Environmental Protection Act. The National Environmental Protection Act of 1969 is a key Federal environmental statute which regulates the Government's own actions through environmental impact statements. Under NEPA, Federal agencies must undertake a comprehensive environmental planning process for every major action they take. This law is a crucial statutory assurance that the work of the Government and the actions of regulated industries are consistent with the guiding principle of environmental protection.

Section 602 of the bill broadly exempts the FDA's activities from environmental impact assessments under NEPA. In fact, the provision even precludes the FDA from taking environmental considerations into account in its work. The administration unequivocally opposes this provision. This week, I spoke with the Vice President, who expressed his serious personal concerns about this provision. In just a few sentences, this bill opens the door to weakening our environmental protections and lays a welcome mat down for future exemptions and future attacks on an effective and essential environmental statute.

This is a terrible precedent, but it also directly affects the environment. The FDA regulates products which constitute a quarter of our gross domestic product. When it makes decisions on food containers, or manufacturing plant approvals, or handling and disposal of medical supplies, it can have an immense impact on the environment.

Ironically, this antienvironmental extremism is not even demanded by the regulated industry, which regards the reforms of the NEPA process recently announced by the Clinton administration as fair and balanced.

We all agree on the importance of FDA reform. The reauthorization of the Prescription Drug User Fee Program is tremendously important to assure that the FDA will have adequate resources to review new drugs and biological products quickly and effectively. This legislation contains many significant reforms that can streamline the regulatory process and codify improvements that FDA has already taken administratively. I compliment Senator JEFFORDS, the chairman of our committee, and many other colleagues who have worked hard on this bill and have been willing to work together to eliminate many other troublesome provisions in the bill as originally introduced. Let us now move to complete this work by fixing the remaining contentious issues included in this legislation.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. JEFFORDS. Mr. President, this legislation is the result of a well-considered process to consult with all points of view and to benefit from the expertise needed to craft legislation on this complex matter. The substitute before us today stands on the shoulders of four hearings and a committee markup of a comprehensive Food and Drug Administration reform bill in the 104th Congress.

This year we held two more hearings, taking testimony from Food and Drug Administration, industry experts, physicians, and consumer groups—and I emphasize ''and consumer groups.'' Staff held dozens of meetings with Food and Drug Administration, experts and patient groups, discussing in detail every issue of this bill. The negotiation process with Food and Drug Administration, and the minority started in the drafting phase of the bill and continued up to and right through the markup, and has continued right up to this moment. This has been a process marked by openness and consultation.

The philosophy of this bill is to codify recent efforts of the self-reform of the Food and Drug Administration, and a great deal of that is self-reform which we are codifying, and to provide the Food and Drug Administration with the tools to do even better in certain areas.

We recognize that Congress cannot micromanage an agency like the Food and Drug Administration, nor do we want to. But we must set realistic performance goals to ensure the public is protected and well served and that the industry is fairly treated. In an era of flat or declining resources, we must give the Food and Drug Administration the management tools it needs to manage an increasing workload without the expectation of ever-increasing appropriations to assist them.

The first title of S. 830 establishes in statute that the mission of the Food and Drug Administration is to protect the public health, promptly and efficiently review clinical research, and take appropriate action on the marketing of regulated products in a manner that does not unduly impede innovation or product availability.

From the 1906 Food and Drugs Act through the 1990 Safe Medical Devices Act, food and drug law has emphasized the duty of the Food and Drug Administration is to protect the public against unsafe or ineffective products. This legislation, as reflected in the mission statement, strengthens protection of the public from unsafe or ineffective products and provides a better balance in the law by ensuring timely access to safe and effective products. It is simple: Safe and effective products can be made available more quickly—and they should be. That is what this bill does.

The legislation reauthorizes the Prescription Drug User Fee Act of 1992, commonly referred to as PDUFA, to allow the continued collection of user fees from prescription drug manufacturers for 5 additional years. PDUFA I represented a consensus among the Food and Drug Administration, the prescription drug industry, and Congress that the industry would pay user fees to augment the resources of the Food and Drug Administration devoted to the review of human drug applications. PDUFA I has succeeded in substantially reducing review times for human drug applications, bringing those drugs to the market sooner than before.

At some point in the debate I would like to engage a colloquy with Senator MIKULSKI, a cosponsor of S. 830, to discuss the importance of the performance enhancements that PDUFA will bring to the drug review process. We have all

benefited from Senator MIKULSKI's determination to bring the Food and Drug Administration into the 21st century for the benefit of her own constituents who work at the FDA, for the betterment of the burgeoning biotechnology sector in Maryland, and for the parties throughout America who are served by the technologies developed by those companies.

Title VII of S. 830, or PDUFA II, would build on the original legislation by codifying new commitments from FDA to implement more ambitious and comprehensive improvements in the regulatory process. PDUFA I focused on reducing the length of time taken by FDA in reviewing an application. The committee commends FDA for successfully meeting, and at times exceeding, the performance goals established at PDUFA I. However, while review times for submitted applications have improved, the period of time taken to get the drug through the drug development phase has recently increased from 5 to 7 years. Appropriately, PDUFA II will focus on shortening overall development time.

It will streamline interaction with the FDA during the highly regulated drug development phase and also establish new performance levels and procedures for FDA that are designed to reduce the time required to show that a drug is ready for FDA review.

The bill provides improved access to new treatments and important information needed by patients. Section 102 establishes a statutory right for any person, acting through a physician, to request an investigational drug, biological product, or device for diagnosis of a serious disease or condition. This provision builds upon current FDA programs that have proved so successful for aids and cancer drugs, and this is an area that is critical to all of us.

This section of the bill includes modifications urged by the FDA and patient groups, that codify important patient protections. These provide patient access under their physician's supervision, to unapproved therapies, under the existing emergency use, and investigational device and drug treatment exemption programs.

Another important provision advocated by the patient groups as one of their top priorities is section 808, which establishes a registry of clinical trials, both publicly or privately funded, of experimental drugs and biological or serious life-threatening medical conditions.

Registry information must be understandable to the general public and include the purpose of experimental protocol, trial eligibility criteria, and sites and contact points for people wishing to enroll in a clinical trial. It is critical that those people who are suffering from the diseases of this nature be able to find out how they can get involved and be able to take part in a program which is designed to bring them back to health. Patients, health care providers, researchers, and the public would access the registry through toll-free telephone communications and other informational systems. This provision was included in the bill as an amendment offered by Senator DODD, based on legislation introduced by Senator SNOWE and Senator FEINSTEIN. We are all grateful for their leadership in this area. I should add that Senator DODD, who is a cosponsor of S. 830, must be recognized for his early and unflagging support for enacting broad-based reform this year. He has worked incredibly hard and has been one of the most steadfast leaders in bringing forth a bipartisan bill.

Yet another provision designed to speed new drugs to patients who need them is section 613. The FDA currently has a number of mechanisms aimed at streamlining the development and approval process for new therapies for serious and life-threatening conditions. Section 613 establishes a statutory mechanism for identifying breakthrough drugs early in the product development phase. It provides sponsors of such drugs a reasonable opportunity for early interaction with the agency to further help streamline the development and approval process for such drugs.

This provision is intended to clarify and to coordinate some of FDA's mechanisms for new drugs and biological products that are intended for the treatment of serious and life-threatening conditions and that demonstrate the potential to address unmet medical needs for such conditions. It defines and clarifies a process pursuant to which sponsors of these drugs may interact with the FDA, and includes provisions that will ensure that these processes are well known and well understood.

I want to mention other changes made in the substitute that have been the subject of discussion between the committee markup and floor consideration.

I want to make sure that everyone has an opportunity to know what we will be voting on and that they will have an opportunity to review this and, hopefully, fully understand it. Certainly, my staff, and I am sure Senator KENNEDY's staff is available to enlighten them if they have questions. I urge all members to take a look at the bill that is now before the Senate.

The third-party review provision has undergone substantial revision since its was first debated in the 104th Congress. This provision has been developed under the leadership of Senator COATS, who has played an important role in advancing FDA modernization throughout this process. This year, he has played a special role in the development of S. 830 from its inception and provided wise counsel on how to achieve the best possible reform at the FDA. The third-party review pilot in this bill moves important expansion to the current FDA third-party review program for medical devices.

I should mention that two amendments to the provision on third-party review for medical devices offered by Senator HARKIN in committee, which were not agreed to, did form the basis for subsequent compromise reflected in the substitute now before the Senate. To meet the Senator's concerns and the concerns of others, the bill sponsors have agreed to statutory language establishing the right of FDA to review records related to compensation arrangements, and excluding from third-party review class III products, products that are implanted for more than 1 year, products that are life sustaining or life supporting, and products that are of substantial importance in the prevention of impairment to human health.

This was an important provision which brought peace of mind to many and allowed us to come forward with the bill in the form we have now. These changes in scope and the additional safeguards to protect against conflict of interest broaden public confidence in this pilot and provide FDA with a needed tool to manage an increasing workload of medical device reviews.

Two other critical provisions to improve the medical device review program will make the review process more efficient and collaborative for high-technology products—those which offer the greatest benefit for patients and which also experience the longest review times at FDA. Senator WELLSTONE is the sponsor of legislation to reform the medical device approval process that includes these two provisions and others in S. 830, and I applaud his leadership on these issues. Section 301 creates the opportunity for a manufacturer to meet with FDA to establish the type of scientific evidence necessary to demonstrate effectiveness for a device. FDA had earlier concerns about binding determinations of device data requirements needed to show efficacy. In response to the FDA, the provision has been modified to ensure that the agency will receive sufficient information to make such a determination and is provided authority to modify the determination where appropriate.

Manufacturers should not have to spend months wondering if their application is still on track in the review process. Section 302 requires the agency to meet with manufacturers 100 days after a premarket approval application is submitted to discuss deficiencies and any additional information required for approval. This provision, too, was modified to address FDA's concerns that the agency only be required to identify deficiencies known at the time of the 100-day meetings. And FDA would only be required to identify information needed to correct those deficiencies.

In recognition that the mandatory postmarket surveillance authority established in the 1990 Safe Medical Devices Act was overbroad and inconsistently applied, S. 830 made the current mandatory postmarketing surveillance discretionary and limited surveillance to a 24-month period, unless FDA

showed that longer time is needed to track device after marketing.

Concerns of the FDA and patient group are further addressed in the substitute by striking the portions of the provision establishing new duration and scope limitations on postmarket surveillance—under the agreement the only change to the existing surveillance authority is to make it discretionary, allowing FDA the flexibility to impose surveillance requirements as appropriate without leaving itself or companies in technical violation of the law.

Another area of disagreement prior to markup was the manner in which S. 830 proposed to handle certain types of manufacturing changes for medical devices. Senate bill 830 proposed to allow these changes to proceed on the basis of a notification rather than a full supplemental application.

The substitute modifies the provision in the manufacturing changes section so that FDA may in some cases still require the submission of a supplement for a manufacturing change, and such supplement must be approved prior to implementation of the change. These manufacturing change supplements shall be reviewed in 135 days. This compromise will still allow many, if not most, manufacturing changes to proceed under a streamlined process.

Senator GREGG, who worked very, very hard on this bill, has been certainly one of those who deserves a great deal of credit for bringing it to the body in the form it is in, which I believe is most satisfactory. He is to be also commended for his proposals to streamline the FDA process for the consideration of health claims based on Federal research and his amendments to establish uniformity for over-the-counter [OTC] drugs and cosmetics.

He has modified this provision to exempt California's proposition 65 and allow States to regulate cosmetic labeling and packaging issues where FDA has not acted. Senate bill 830 authorizes truthful, nonmisleading health claims for food products that are based on published authoritative statements of scientific bodies of the U.S. Government such as the National Institutes of Health. FDA expressed concern regarding the length of time the agency had to assess these proposed claims and the mechanism by which they might prevent a particular claim from going forward. Agreement with FDA was reached on the basis that FDA is given 30 additional days to review a health claim under the provision, for a total of 120 days to review a health claim. FDA is able to prevent the claim from being used in the marketplace by issuing an interim final regulation. FDA may also block a claim from going forward, if the conditions established under the provision governing claims are not met. Again, I thank the Senator for his excellent work in crafting this provision and reaching agreement with the FDA.

The committee adopted an amendment by Senator FRIST which conforms the statute with FDA's current practice and today's science with regard to the quality of data required to show drug efficacy. I am especially grateful to Dr. FRIST, a cosponsor of the S. 830, whose medical expertise has lent credibility to the decisions we have made in the complex area of medical technology regulation.

Senator DEWINE, joined by Senator DODD, offered an important amendment to establish incentives for the conduct of research into pediatric uses for existing and new drugs.

The bill was improved by Senator HUTCHINSON's amendment, to establish a rational framework for pharmacy compounding, which respects the State regulation of pharmacy while allowing an appropriate role for FDA. I look forward to participating in a colloquy with the Senator and the ranking minority member on this topic.

The ranking minority member, Senator KENNEDY, has played a vital role in bringing this compromise to the floor. In markup, he offered two important amendments adopted by the committee. One amendment, developed in consultation with Senator GREGG, improved a provision from last year's legislation governing the regulation of radiopharmaceuticals. The second improved the bill's provision setting forth a streamlined process for the review of supplemental applications for new uses of approved drugs.

I commend the Senator for his hard work and willingness to compromise on a number of issues which threatened to hold up proceeding on the bill. We reached agreement on the distribution of health care economic information. This data is the essential information ingredient in the drug selection process in the growing managed care sector of the health insurance marketplace. We agreed to require pharmaceutical companies to report annually on their efforts to comply with postapproval studies. This is essential information needed to provide the assurance that these studies will in fact be completed. Again, I thank the Senator for his willingness to work out these and other compromises.

Finally, I would like to comment on the involvement of patient and consumer groups: They testified at one of our committee hearings. Also, our staff met a dozen times with representatives of these groups to discuss their proposals, share our ideas and drafts, and debate policy issues. Representatives of these groups were in key meetings with industry, FDA, and bipartisan staff to discuss the resolution of issues they identified as critical—pharmacoeconomics and the requirement of drug companies to comply with postapproval, or phase four, study requirements are examples of where we relied heavily on their advice and were pleased to have their information.

The bill reflects changes to address their concerns: Companies must report on their compliance with phase four studies; FDA is given express authority to inspect compensation records of third-party reviewers; patients will have access to a registry of clinical trials information; and additional safeguards were built into the provision allowing expanded access to products under clinical investigation. It is clear that these groups have played an active and important role in drafting this bill.

Mr. President, I stand before the body today with a sense of relief because, for the first time, I feel we are really, without any further delays, coming toward completion. It is also still my purpose and my goal to ensure that all Members will still have an opportunity to express themselves, and that when we come back next time, I hope that we will have an agreement or unanimous consent that we can proceed without the necessity of invoking cloture, and have amendments established to be considered in reasonable lengths of time, so that this bill can move forward. Certainly, I ask those who are desiring to propose amendments, when we come back here next week, to get in touch with us today, tomorrow, and during the weekend and the first of the week so we can try to accommodate all Members who desire to have amendments that they desire to have expeditiously considered.

I urge all of the body to recognize that this is an important piece of legislation. It has to be acted upon yet by the House. They are anxiously awaiting us to move, so hopefully the bills can be as close together as possible, so that we can have the bill signed into law expeditiously, within a month.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. HARKIN. Mr. President, I yield 10 minutes to the Senator from Minnesota.

The PRESIDING OFFICER (Mr. ALLARD). The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I come to the floor to speak about S. 830, the FDA Modernization Reform Act of 1997.

I guess there are a couple of things I would like to say about this piece of legislation.

First of all, I would like to thank my colleagues who have worked very hard on this. Senator JEFFORDS, Senator KENNEDY, Senator COATS, Senator GREGG, Senator HARKIN, and many others as well.

I also would like to thank Linda Degutis, who is going to be on the floor with me who has been a fellow with our office. These fellow programs are wonderful programs. I think many of us are always looking for additional support and expertise. She has done a marvelous job.

This bill has traveled an interesting journey. It was in committee markup about maybe a year ago, or thereabouts. I voted against it then. That was a difficult vote for me because it never really came to the floor. But I said then that there was much in this bill that I approved. I wanted to see some changes. But I thought the bill went too far.

It was frustrating because on the medical device part of this bill our office had put much work into it. We spent about a year and a half, and I think other Senators know what this is like—writing a lot of the provisions. But I thought the legislation went too far.

There were a number of things in it that are technical sounding. I will not go into all of it. But it was an overreach. It went too far trying to privatize FDA. The one thing you don't want to do is throw the baby out with the bathwater. I really have to keep the consumer protection part. It is quite one thing to say that you want more predictability and more timeliness and more focus in the regulatory process. I am all for that. It is one thing to say that we have to get these products to the market in a timely fashion. I am all for that. But they have to be safe and effective.

Then we came back to committee. The second time around it was close again because there were some provisions in the bill that I did not agree with. I voted for it. I have tried to work real hard with lots of different people here. I don't think I need to talk about myself because that is not important. I think this has been a pretty darned important collaborative effort.

We are almost there. I thank Senator GREGG for his cooperation. I think the provisions dealing with cosmetics and preemption of State standards, which would have affected my State in a very negative way, was a mistake. I think that has been worked out. We still may have some work to do yet with NEPA in terms of how this affects environmental impact statements. I believe that will be worked out. There are a couple of other problems that I think we are working on right now.

But, Mr. President, let me just say that it is my belief that we can do better—that we can provide medical products to consumers in a more timely manner through the provisions in this bill while retaining significant consumer protection. It is my belief as a Senator that this legislation would improve the predictability and the timeliness and the focus of the regulatory process for medical products.

Mr. President, next week when we bring this bill up, I am going to talk about what all of this means in specifics because this has been about 2½ years of work for me as a Senator from Minnesota. But as long as we are just kind of setting the stage here, if you will, I think the mood here in the Senate is very positive.

I say to Senator JEFFORDS again, Senator JEFFORDS has done a really fine job of bringing people together. I actually think that we brought together not only Democrats and Republicans but others, a lot of people who have been involved with this. I will give full credit to a lot of the consumer organizations who have not agreed with everything in the bill, and they have been fighting hard and they continue to fight hard. They certainly have let me know when they have not agreed with positions I have taken, but they have done it with class, and they have been tough. They should be tough, and they should be critical. And they have been.

By the same token, I want to make it clear that I think the business community, the industry has been very responsible. At one point in time when the Congress first started talking about FDA reform, I think there were some—this now goes back probably 2 years or so—who really looked at this as an opportunity to privatize FDA, roll back the really important consumer protection provisions.

I think that is over. It is over for a lot of different reasons. It is over because I think people now in the Congress hopefully understand that people in the country are not interested in not having strong consumer protection. They view FDA as extremely important to them and the regulation that FDA does as being very important to their lives and to their children's lives.

I also think people have pulled back from that because the of industry—and I want to give a lot of credit to the industry. There are a lot of people in the industry—and I know more about the medical device industry—who have basically every step along the way made it clear that, no, this goes too far; we are willing to compete with the gold standard; we are just asking to get our products to the market in a more timely fashion, but we don't want to give any ground. These products have to be safe and effective.

To say that there ought to be more predictability, to say that when you have a protocol and you have waited for a year or you have waited more than a year and then all of a sudden you are told the protocol is no good, you had a right to learn about that earlier, you would like to at least have conversation with the agency, is very reasonable.

Now, we had some provisions in the bill, including when I voted for it in the committee, that I thought still needed to be worked on, changes needed to be made. Again, Senator JEFFORDS, Senator KENNEDY, and a number of people worked very hard and I think we have really worked very diligently, and a lot of those problems I think we have dealt with.

So what we have here, Mr. President, I think is an important piece of legislation. We will undoubtedly have that, when we bring this bill to the floor—I say to my colleague, Tuesday, probably, is that correct?

Mr. JEFFORDS. That is correct.

Mr. WELLSTONE. There will be discussion. Some of us are still working on improvements. But overall what this piece of legislation does, I will summarize—and I will talk about it in specifics later. I will talk about it in a fairly technical way next week. But if I had to summarize, I do believe now after tough negotiation, after a lot of people in the country being involved with this on all sides, after Democrats and Republicans I think pulled together on this, with Senator JEFFORDS—and I am not just saying this because he is in the Chamber—really providing key leadership, Senator KENNEDY being in there fighting, with Senator COATS as well, being willing to negotiate; I am proud of our office's roll and other people as well, what we have is a piece of legislation which says essentially, look, there will be more predictability, there will be more timeliness, more focus on FDA's regulatory action, we can get products to the market in a timely fashion, which is important to families and consumers, but we can do it in such a way that we do not sacrifice consumer protection.

We are almost there, and I think this is going to be a very important reform bill, and I am very proud to be a part of it.

I thank my colleague for his work.

Mr. JEFFORDS. Mr. President, I will yield on my time. I thank the Senator for all the work he has put into this bill. I know he is probably one of the strongest consumer advocates this Senate has ever seen. I would like to chat with the Senator just a bit because there is some concern of consumer advocates in my State who say how come we are getting all these editorials? And I would have to say in fairness to this committee they are based upon information which may have been true a month or 2 months or 3 months ago, but we have gone out of our way to put on the web pages—in fact, the most recent agreement which we have reached on cosmetics is now, or will be this afternoon, on the web pages so that all they have to do is tune in and they can see the exact wording.

So I urge those who are still nervous about what is in the bill to find out. It is available. In the modern age of being able to have information available, it is available instantly around the country. I hope that we would continue to work on the basis of what the bill is instead of what it used to be.

I acknowledge the Senator's contribution to this effort entirely. The Senator has been instrumental in proposing innovative ideas and finding solutions. He has done an outstanding job in helping myself and Senator KENNEDY bring this bill to where it is. The Senator is looked upon by many as a person they can trust to protect the interests of the consumer. So I thank the Senator for his very active participation in this bill.

Mr. WELLSTONE. Mr. President, I thank my colleague, and I think he is right about the time lag on information that has gotten to people. We have

continued to be in tough negotiations and a good number of these problems have been resolved. I guess my style would be to say to the strong consumer organizations, keep on pushing hard to the very end. I think this is emerging as a real solid piece of work, and I am proud to be a part of it.

I thank the Senator very much for the very gracious remarks. Linda Degutis, again, I thank very much for her help. She has been helpful in this in a big way.

I thank the Chair.

Mr. DODD. Mr. President, I want to begin by thanking my colleagues for their overwhelming support last week for cloture on the motion to proceed with this bill. Some 89 Senators very loudly and very clearly told us last week that they were ready to move forward to reauthorize PDUFA and to begin debating the other critical reforms this bill contains.

There is no Federal agency with a more direct and significant impact on the lives of the American people than the Food and Drug Administration. The foods we serve our family, the medicines we take when we're sick, even the drugs we give our pets, are all approved and monitored by the FDA.

We must not lose the opportunity that we have before us now to enact legislation that ensures the FDA has the authorities it needs to bring safe and effective products to the American people quickly and efficiently.

I would like to again thank both Senator JEFFORDS and Senator KENNEDY for their perseverance on this issue. Time after time they have been willing to return to the bargaining table after many others would have just walked away. With open minds and in good faith, they've extensively negotiated this bill, line by line.

We have come to a point where issues on which Members were previously completely polarized—third party review of medical devices, off-label dissemination of information, health claims for food products, the number of clinical trials needed for drug approval, and just today national uniformity of cosmetics—we've now reached agreement.

I don't know that any of us would have thought unanimity possible on these provisions even 2 months ago—yet here we are with full agreement on all but a handful of issues.

I know we have a better bill for all of the arduous negotiations that have occurred.

Just as an example of how far we've come, let's talk about third party review of medical devices. The bill would expand the pilot program currently administered by the FDA.

This is a program, I should note, that is supported by the FDA as a way to make more efficient use of its resources.

In last years debate, which many of you will remember as being much more acrimonious, we were told this provision was a nonstarter, no room to compromise, subject closed.

This year, I am pleased to say, a spirit of bipartisanship and compromise prevailed. Senator HARKIN, Senator KENNEDY, and Senator COATS worked diligently to draft language that ensures that higher risk devices aren't inappropriately included in this pilot program and that strong conflict of interest protections are in place.

And just last night, again on an issue that appeared unresolvable—national uniformity for cosmetics, we have reached agreement. Senator GREGG has offered what I think is a very reasonable compromise. In the area of safety requirements, States can continue to regulate where the FDA has not acted.

Conflicting State requirements that could confuse consumers will be removed. But where the FDA has not chosen to act, where it does not have either the manpower or the authority to protect the public, States can contain to play their historic role in regulating cosmetics.

This is the kind of effort made over and over again on this bill—some 30 times just since markup 2 months ago we have made improvements to this bill. A great many of us take pride in the product that has been created—a bill that will speed lifesaving drugs and devices to patients and that clearly retains the FDA as the undisputed arbiter of the safety effectiveness of these products.

Mr. President, I would like to speak for a moment about some of the positive reforms contained in this bill.

At the heart of this bill is the 5-year reauthorization of PDUFA, the Prescription Drug User Fee Act—a piece of legislation remarkable for the fact that there is unanimous agreement that it really works.

PDUFA has set up a system of user fees which drug companies pay to the FDA. These fees have enabled the Agency to hire more staff. As a result, drug approval times have been cut almost in half, getting new and life-saving therapies to patients more quickly.

In addition, by improving the certainty and clarity of the product review process, S. 830 encourages U.S. companies to continue to develop and manufacture their products in the United States. The legislation emphasizes collaboration early on between the FDA and industry during the product development and product approval phases. This will prevent misunderstandings about Agency expectations and should result in even quicker development and approval times.

In addition, S. 830 establishes or expands upon several mechanisms to provide patients and other consumers with greater access to information and to life-saving products.

For example, S. 830 will give individuals with life-threatening illness greater access to information about the location of on-going clinical trials of drugs.

Based on a bill originally championed by Senators SNOWE and FEINSTEIN. I offered an amendment in committee, which I was pleased to see adopted, to expand an existing aids database to include trials for all serious or life-threatening diseases.

Experimental trials offer hope for patients who have not benefited from treatments currently on the market. Currently, patients' ability to access experimental treatments is dependent upon their spending large amounts of time and energy contacting individual drug manufacturers just to discover the existence of trials.

This is not a burden that we should place on individuals already struggling with chronic and debilitating diseases. This database will provide ''one-stop-shopping'' for patients seeking information on the location of and eligibility criteria for studies of promising treatments.

Mr. President, I am particularly pleased that this bill incorporates the Better Pharmaceuticals for Children Act, legislation originally introduced by our former colleague from Kansas, Senator Kassebaum, and now cosponsored by myself and Senator DEWINE, along with Senators KENNEDY, MIKULSKI, HUTCHINSON, COLLINS, and COCHRAN.

This provision addresses the problem of the lack of information about how drugs work on children, a problem that just last month President Clinton recognized publicly as a national crisis.

According to the American Academy of Pediatrics, only one-fifth of all drugs on the market have been tested for their safety and effectiveness in children. This legislation provides a fair and reasonable market incentive for drug companies to make the extra effort needed to test their products for use by children. It gives the Secretary of Health and Human Services the authority to request pediatric clinical trials for new drug applications and for drugs currently on the market. If the manufacturer successfully conducts the additional research, 6 extra months of market exclusivity would be given.

I recognize that there are few matters still unresolved on this bill despite the best efforts of all involved. And those we will need to simply address though the traditional process of holding votes on the issues.

One issue, which I plan to discuss further when we debate the bill on Tuesday involves section 404 of the bill, which relates to the FDA's review of medical devices. This provision, the so-called labeling claims provision clarifies current law by stating that when reviewing a device for approval, FDA should look at safety and efficacy issues raised by the use for which the product was developed and for which it will be marketed.

Again, this is current law. Unfortunately, in a few instances, the FDA has inappropriately expanded the scope of its review by requiring manufacturers to submit data on potential uses of product.

Some have raised concerns that under this provision a manufacturer

could propose a very narrowly worded label for a device and that the FDA would be barred from asking for information on other obvious uses.

This is simply not the case. The FDA retains its current authority to not approve a device if based on a fair evaluation of all material facts, the labeling is false or misleading. Clearly, if a bad actor device manufacturer attempted to get a misleading label past the FDA, the Agency would have full authority to disapprove the product.

I was pleased to join Senator JEFFORDS as the first Democratic cosponsor of this bill. I would thank him again for the hard work and long hours that he and his staff, as well, as Senator KENNEDY, Senator MIKULSKI, Senator WELLSTONE, Senator COATS, Senator GREGG, and others, have contributed.

I look forward to further debate on and to joining my colleague next week in enacting this legislation.

Mr. JEFFORDS. Mr. President, I make a point of order that a quorum is not present and ask unanimous consent that it be evenly divided between the minority and majority.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. JEFFORDS. The minority representative and myself are sitting here. There is some time left. However, we also want to move the calendar forward as best we can. I just want to alert all Members, minority and majority, if we do not receive a communication from a Member or staff within 10 minutes, it is our intention to yield back the remainder of our time in order that we may move the process of the Senate forward. I just let everyone know that. We will be sitting here, awaiting the news.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. JEFFORDS. Mr. President, speaking on behalf of the leader, I ask unanimous consent that the cloture vote with respect to FDA occur at 10 a.m. on Tuesday, September 16, the mandatory quorum call under rule XXII be waived, and the time between 9:30 and 10 a.m. be equally divided for debate, prior to the vote.

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

Mr. JEFFORDS. Therefore, under rule XXII, all first-degree amendments must be filed at the desk by 1 p.m. on Monday, September 15. I ask unanimous consent that all second-degree amendments may be filed up to the time of the vote on Tuesday.

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

Mr. JEFFORDS. Mr. President, at this time, and I have the permission of the minority, I will yield back the remainder of our time, both minority and majority time; and I so do.

The PRESIDING OFFICER. All time is yielded back.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. INHOFE. I ask unanimous consent that I be recognized for 5 minutes as if in morning business.

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

IN MEMORY OF MOTHER TERESA

Mr. INHOFE. Mr. President, Mother Teresa, truly a saint, died last week at age 87. I think we have all talked about her and the fact she dedicated her life to helping the poor and the sick, the dying around the world, particularly in India. But I remember so well a morning on February 3, 1994. It was a National Prayer Breakfast. We had invited Mother Teresa to come and be our speaker. She did not reject. She just said, well, if the Lord is willing, I will be there. And we said, do you think he will be willing? And she wasn't too sure.

Nonetheless, she did show up and we had an audience of 3,000 people in the hotel, including the President and his wife, and the Vice President and Mrs. Gore, and congressional leaders, people from all over the Hill and from all over America. Every State was represented, almost every country was represented, and, of course, in addition to that there was a television audience of millions.

Mother Teresa gave really an extraordinary speech. It was referred to by columnist Cal Thomas as ''the most startling and bold proclamation of truth to power I have heard in my more than 30 professional years in Washington.''

I think a lot of us know Peggy Noonan. She was the speech writer for Ronald Reagan. She called it ''a breathtaking act of courage.''

In describing it she said Mother Teresa was introduced and spoke of God and love and families. She said, ''We must love one another and care for one another.'' And she described it that there were ''great purrs of agreement'' from the audience. And I remember that so well because I was one who was purring.

But the speech became more pointed at that moment.

Mother Teresa—and I am quoting now, Mr. President—said:

> I feel that the greatest destroyer of peace today is abortion, because it is a war against the child, a direct killing of the innocent child, murder by the mother herself. And if we accept that a mother can kill her own child, how can we tell people not to kill one another?

She said:

> By abortion, the mother does not learn to love but kills even her own child to solve her problems. And, by abortion, the father is told that he does not have to take any responsibility at all for the child he has brought into the world. That father is likely to put other women into the same trouble. So abortion just leads to more abortion.

Then she said:

> Any country that accepts abortion is not teaching its people to love, but to use any violence to get what they want. This is why the greatest destroyer of love and peace is abortion.

Mrs. Noonan described the scene:

> For about 1.3 seconds there was complete silence, then applause built up and swept across the room. But not everyone: the President and the First Lady, the Vice President and Mrs. Gore looked like seated statues at Madame Tussaud's, glistening in the lights and moving not a muscle.

I remember when Mother Teresa then looked over at President and Mrs. Clinton and she said:

> Please don't kill the child. I want the child. Please give me the child. I am willing to accept any child who would be aborted and to give that child a married couple who will love the child and be loved by the child.
>
> From here, a sign of care for the weakest of weak—the unborn child—must go out to the world. If you become a burning light of justice and peace in the world, then really you will be truest to what the founders of this country stood for.

Mr. President, we must revere Mother Teresa for what she was, the saint that she was, and we must remember her. But I think most of all we must listen to her. I repeat: ''Any country that accepts abortion is not teaching its people to love but to use any violence to get what they want. This is why the greatest destroyer of love and peace is abortion.''

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. HAGEL). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DORGAN. Mr. President, I ask unanimous consent to speak for 10 minutes as in morning business.

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

FAST-TRACK TRADE AUTHORITY

Mr. DORGAN. Mr. President, the President has sent to the Congress a determination that he would like Congress to provide what is called fast-track trade authority with which he could negotiate additional and new

trade agreements with other countries. It is my hope that in the coming weeks, this request will result in a significant, new and interesting debate about this country's trade policies.

I know as I begin this discussion that we will almost retreat immediately into two camps. The one camp is ''We're for free trade, we're for, therefore, what is called fast-track trade authority.'' The other side is somehow a bunch of know-nothing protectionists, a bunch of xenophobes who just don't understand the world, and all they want to do is create walls around our country.

That is the thoughtless way that most trade debate has been conducted in this town and in Congress. I hope, however, that this time, when we discuss fast-track trade authority, we will have an opportunity to evaluate trade policy.

The issue for me is not fast track. That is a procedural issue. Yes; I will want to evaluate the underlying law from 1974 on fast track, and I am going to do that to see whether that fast-track approach might be changed. However, I am much more interested in the question of what will be the results? What kind of trade agreements and what kinds of trade policies are they seeking under fast track?

We had fast track most recently for something called NAFTA, a set of trade agreements with the United States, Mexico, and Canada. Just prior to fast track, we had a $2 billion trade surplus with Mexico. Now we have a $16 billion trade deficit with Mexico. Can anyone believe that should be described as a success? I think not. Just prior to this trade agreement, we had an $11 billion trade deficit with Canada. Now we have a $23 billion trade deficit with Canada. Can that be described as a success? I think not.

Our trade problems go and on. There is China, Japan, and more. We will have a trade deficit with China of well over $40 billion a year. Our trade deficit with Japan has hovered between $50 and $60 billion a year as far as the eye can see.

No one wants to talk about the central question we ought to debate with respect to trade, and that is, what about enforcing the trade agreements that already exist?

I want to give my colleagues an example of one of the things that bothers me so much about where we go in this trade discussion. Right at this moment we have an ongoing discussion with Japan on the issue of the United States aviation industry's access to the Japanese markets. In trade with Japan, in the arena of airline passenger service, we have a net surplus with Japan of a couple billion dollars. We have better carriers in terms of being able to compete. They are better able to compete with the Japanese, and we actually do quite well. We have a surplus in that area.

If we had completely open skies and unlimited competition and unfettered competition with the Japanese with respect to airlines, we would have an even larger surplus with Japan. But we have trade agreements with Japan that we made previously with respect to passenger aviation and with respect to hauling freight on airlines, and so on.

What has happened is the Japanese have not abided by the previous agreements. We have had a freight agreement with them that they simply have ignored, and have not abided by. Now we are back into negotiation with the Japanese, and the Japanese have done a couple of things. For one, they said, ''We don't like the fact that you have a surplus with us on hauling airline passengers.''

Think of the arrogance of that. Here is a country that has a $50 billion trade surplus with us—and has had such a surplus every year, year after year after year—complaining about one little sector where we have a surplus with them, and then they want to get us into a negotiation. Instead of going to open skies where you have free and open competition, they want to get this administration—and I think this administration is headed in that direction—to reach an agreement that is not in our interest.

That is an example of what is wrong with trade policy. We ought to say to the Japanese that on aviation and other issues that we believe that our trade policy ought to result for this country, for the United States, increased economic opportunity and increased trade and, yes, balanced trade. This country cannot and should not countenance long-term trade deficits with countries like Japan of $50 and $60 billion a year.

We ought to say to China, for example, that you have a $40 billion trade surplus with us. We have become a cash cow for your hard currency needs in China, and we will no longer stand for it. If you want to send us all the goods from China into the United States, then we say to you, you have a responsibility and an obligation to buy more from us.

Why is all this important? Because it represents economic vitality and jobs. It is interesting. I hear people talk about trade and they say, ''Gee, we've done so well in trade. We've doubled our exports to this country or that country.'' That is the first thing they will point out in a press release.

So the headline is ''U.S. Doubles Export of Goods to Country X.'' What they didn't say was that imports from that country increased 10 times during the same time period, which means that our trade deficit with that country skyrocketed.

So the whole story, the rest of the story, would describe failure, but the press release describes success—''We've doubled our exports.''

In sectors where you have tradable goods, we actually have had a net job loss in this country as a result of all the trade agreements. The job gains which are often trumpeted as being the result of exports actually come from areas in the nontradable sectors of our economy, particularly in services.

The point I am making about all of this is we are going to have a debate about fast-track trade authority. I want the debate to be about trade policy. Is our trade policy working for this country or isn't it?

I happen to believe in expanded trade. I believe in free trade to the extent that it is fair. I also believe in trade agreements to the extent that we negotiate trade agreements that are in this country's interest. But, for a change, I would like the negotiators who negotiate trade agreements to start wearing the jersey of our side. It is our team that we are worried about.

Is that economic nationalism? Well, I don't know about all those terms they throw about. Do I care about the long-term economic opportunities in this country? Yes. Do I want economic growth here? Yes. Do I want jobs in this country? Yes.

So when a country like China says to the United States, ''We want to ship you all of these goods and run a very large surplus with you or have you run a large deficit with us,'' and then China says, ''By the way, we want to buy some airplanes,'' and they say, ''We don't want to buy airplanes made in America, we want you to have your American company produce these airplanes in China,'' we ought to say that's not the way a trade relationship works.

A bilateral trade relationship works in a way that says, ''When you have goods our consumers need, we will buy them from you and you have access to our marketplace, but when you need what we produce, when you need what our workers and our companies produce, we expect you to buy them from us.'' That is the way a trade relationship works in a manner that is mutually beneficial to both parties.

Our country has been satisfied to have a trade policy that has produced trade deficits, net trade deficits for 36 out of the last 38 years. You show me one CEO of one American company who has had 167 successive quarters of losses, quarter after quarter after quarter forever, who isn't going to stop and say, ''Gee, I think there's something wrong here. Something is out of whack.'' That is exactly what is wrong with our trade policy. Yet, Republicans and Democrats will tell us on the floor of this Senate that our trade policy is working very well. What a terrific policy, they tell us.

I want for us to have greater access to foreign markets. For example: If China wants to send us goods that exceed the amount of goods they will accept from us by $40 billion a year, I want us to say to China, ''You have an obligation to buy much, much, much more from the United States of America to have a balanced trade relationship.'' I want us to say the same thing to Japan, the same thing to Mexico, the same thing to Canada and others

with whom we have large, abiding trade deficits. We need to say that because those deficits weaken this country. Those deficits detract from our economic growth and fundamentally weaken the American economy.

There are those who, I guess, believe that whatever the interests of the largest corporations in the world are, that they are also in the common interests of the United States. Things have changed. We do, indeed, have a global economy, but the largest corporations in the world now are not national citizens. They don't get up in the morning and say, ''Well, you know, I'm an artificial person, I'm a corporation, what in law is described as an artificial person; I can sue and be sued, contract and be contracted with; I'm an artificial person and, therefore, I have allegiance to this country.'' That's not what they do.

We are not talking about American corporations anymore. We are talking about international corporations that do global business that are interested in profits for their shareholders.

How do you maximize profits for your shareholders? You access the cheapest kind of production that you can access in the world, produce there at a dime-an-hour, a-quarter-an-hour, or a half-a-dollar-an-hour wages and then ship the products to Pittsburgh, Toledo, Los Angeles, or Fargo and sell it on a shelf in a store in one of those cities. Produce where it is cheap and then access the American marketplace.

The problem with that strategy is that while it presents increased profits for international corporations it tends to undermine the American economy. I am not saying the global economy and the growth of the global economy is wholly bad; it is not. It provides new opportunities and new choices for the consumers, and in some cases lower-priced goods for the consumers. The question we have to ask ourselves is: what is fair trade and what advances this country's economic interests?

If deciding that you can produce something that you used to produce in Akron, OH, in a factory in Sri Lanka or Indonesia or Bangladesh and you can get 14-year-olds, pay them 24 cents an hour, working 13 hours a day—if you decide that is in your company's interest—is that in this country's interest? I don't think so.

Is it in this country's interest to see that kind of manufacturing job flight from this country to a low-wage country so that the same product can be produced to be shipped back into this country, and the only thing that's changed is the corporation has more profit and the United States has fewer jobs? Is that in this country's interest? I don't think so.

I was on a television program 2 days ago. When I asked this question the moderator said the conditions under which goods are produced in other countries is none of our business. If another country wants to hire kids and pay them dimes an hour, if another country wants to produce by dumping chemicals into the water and pollution into the air, if another country wants to produce having no restrictions on those companies and allows them to pollute the air and water, hire kids, pay a dime an hour, if that's what they want to do, is that none of our business? And if the production from that factory—hiring kids and polluting the air and polluting the water—if that production comes into this country and goes on the grocery store shelves, is that all the better for the American consumer because it is going to be cheaper?

I think that is a catastrophe to have that kind of attitude. This country spent 60 years debating the question of what is a fair wage? This country spent decades debating whether we ask polluters to stop polluting, and whether we demand that polluters stop polluting in order to clean our air and water. This country spent a long while debating the question of child labor and whether we should allow factories to employ 10-year-olds and 12-year-olds.

This country has debated all those issues. Yet, in the so-called global economy, fashioned in the interest of those who want to accelerate profits from it, there are those who would tell us that they can just pole vault over all of those issues. They don't have to worry about minimum wages. They do not have to worry about pollution control. They do not have to worry about any of that because they can move their factories elsewhere and ship their products back into the United States. That is not fair trade. That is not something that advances the economic interests of our country and ought not be allowed.

What we do is we pass trade agreement after trade agreement, and we don't enforce any of them. When someone hears me speak they say, ''Gee, this is just another protectionist that wants to put walls around this country.'' I do not; not at all. I am very interested in saying to other countries, first of all, you have an obligation. There is an admission price to the American marketplace. The admission price is that you must abide by certain standards with respect to clean air and clean water, and you can't hire kids, and you can't pay a nickel an hour. Yes, that is the admission price to compete in our domestic market.

And, yes, there is a requirement with other countries with whom we have a trade relationship. That requirement is if they want to access the American marketplace and dump tens of millions of dollars of products into that marketplace, then they have a responsibility to America. That responsibility is that their marketplace must be open to us. If our workers and our producers want to go to Japan and go to China to sell our goods in their marketplace, they must have their marketplace open for that. And to the extent you don't, it is unfair trade.

To the extent any country is involved in unfair trade, this country ought to have the will and the nerve to say that we're not going to put up with it.

Mr. President, one final point. This advent of a global economy post-Second World War has been an interesting kind of development. The first 25 years after the Second World War we could compete with anybody in the world with one hand tied behind our back. It did not matter much. Our trade policy was almost all foreign policy. Whatever we did or had with another country had to do with foreign policy. For the first 25 years we could do that easily. We did that and our incomes kept rising in this country.

The second 25 years we have had to deal with competitors who are shrewd, tough economic competitors. We now must insist on trade relationships and trade agreements that are fair to this country's interests. The conditions of trade must be conditions with rules that are fair to our workers and producers. The absence of that means that this country is the economic loser. This ought not be what we aspire to achieve in trade agreements.

Mr. President, I have more to say, regrettably, for my colleagues who do not like this message. I will say it often in the coming weeks as we discuss the trade issue. For now I will yield the floor. I see the minority leader has come to the floor. I know he is going to talk about another topic of great interest. I yield the floor.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. DASCHLE. I will use my leader time to talk on another matter, and I appreciate very much the Senator from North Dakota yielding the floor to allow me to do so.

CAMPAIGN FINANCE REFORM

Mr. DASCHLE. Mr. President, we just announced the signing of a letter dated September 9 by every one of our Democratic colleagues in support of some bipartisan legislation that I hope will enjoy even broader bipartisan support in the not-too-distant future.

The letter is addressed to the majority leader. Because it is brief, and I think the letter is very to the point, perhaps it would be appropriate for me simply to read it.

On July 9, we sent you a letter requesting a date certain on which comprehensive campaign finance reform legislation would be considered on the floor.

Today, we do more than simply renew this request. The purpose of this letter is to communicate to you in the clearest terms possible our specific legislative intentions in this regard.

Senate Democrats are prepared to cast 45 affirmative votes for the substitute language to S. 25, as announced by Senators McCain and Feingold on May 22, 1997. This support, coupled with the votes of the three current Republican cosponsors of this legislation, constitutes 48 votes for final passage, merely two votes shy of a majority.

While each of us might prefer to craft a bill to our individual liking, we recognize that

1997 represents an historic opportunity for comprehensive reform. We are therefore prepared to announce our unanimous support for the only comprehensive, bipartisan approach with a viable prospect of enactment in this session.

There should now be no confusion about the prospects for enactment of the McCain-Feingold bill. Your willingness to schedule S. 25 for an up-or-down vote, coupled with the support of only two additional Republican Senators, could break ten years of gridlock on this matter.

The environment for real campaign finance reform has never been more favorable. We are determined to seize this opportunity, and we ask your assistance in the effort.

It is signed, as I indicated, by all 45 Senators in the Democratic caucus.

Mr. President, I ask unanimous consent that the letter, as it was signed, be printed in the RECORD.

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

UNITED STATES SENATE,
Washington, DC, September 9, 1997.

Hon. TRENT LOTT,
Majority Leader, U.S. Senate, Washington, DC.

DEAR MR. LEADER: On July 9, we sent you a letter requesting a date certain on which comprehensive campaign finance reform legislation would be considered on the floor.

Today, we do more than simply renew this request. The purpose of this letter is to communicate to you in the clearest terms possible our specific legislative intentions in this regard.

Senate Democrats are prepared to cast 45 affirmative votes for the substitute language to S. 25, as announced by Senators McCain and Feingold on May 22, 1997. This support, coupled with the votes of the three current Republican cosponsors of this legislation, constitutes 48 votes for final passage, merely two votes shy of a majority.

While each of us might prefer to craft a bill to our individual liking, we recognize that 1997 represents an historic opportunity for comprehensive reform. We are therefore prepared to announce our unanimous support for the only comprehensive, bipartisan approach with a viable prospect of enactment in this session.

There should now be no confusion about the prospects for enactment of the McCain-Feingold bill. Your willingness to schedule S. 25 for an up-or-down vote, coupled with the support of only two additional Republican Senators, could break ten years of gridlock on this matter.

The environment for real campaign finance reform has never been more favorable. We are determined to seize this opportunity, and we ask your assistance in the effort.

Sincerely,

Max Cleland, Tim Johnson, Byron L. Dorgan, Bob Kerrey, D. Inouye, Herb Kohl, Barbara A. Mikulski, Ted Kennedy, Dale Bumpers, Dianne Feinstein, Frank R. Lautenberg, Max Baucus, Paul Wellstone, Paul Sarbanes, Mary Landrieu.

Wendell Ford, Jeff Bingaman, Tom Harkin, Dick Durbin, Richard H. Bryan, Chuck Robb, John Kerry, Fritz Hollings, Daniel K. Akaka, Bob Graham, Carol Moseley-Braun, Patty Murray, Ron Wyden, Carl Levin, Chris Dodd.

Russell D. Feingold, Joe Lieberman, Jay Rockefeller, Robert Byrd, Joe Biden, Robert Torricelli, John Glenn, Barbara Boxer, Tom Daschle, Patrick Leahy, Daniel P. Moynihan, Kent Conrad, Harry Reid, Jack Reed, John Breaux.

Mr. DASCHLE. Mr. President, I give extraordinary credit to our two leaders on this issue, Senators MCCAIN and FEINGOLD, for their persistence and diligence in the manner in which they have conducted themselves as they have sought resolution of this issue.

I have indicated on occasions, both publicly and privately, that I think Senator MCCAIN deserves great credit for having taken the initiative this year and worked as diligently as he has to bring us to where we are. Certainly the same could be said for our colleague from Wisconsin, Senator FEINGOLD.

The two of them have spent countless hours and an extraordinary effort to bring us to a point where for the first time in recent modern history, Democrats and Republicans can join together in the passage of truly meaningful comprehensive reform.

What I think this letter does is to reaffirm the new math on this issue, to reaffirm how close we really are to passage of a comprehensive bill. I'm not suggesting that all 48 Senators who have signed the letter have agreed to every provision in the legislation. Rather, I firmly believe this letter demonstrates that we are committed to enacting real campaign finance reform this Congress.

There have been suggestions that all we really have to do is to strip away all but a soft money ban, and perhaps we can pass something this year if it is only that. But what this letter indicates is that we have 48 Senators, 2 shy of a majority, who are willing to do a lot more than that, who are willing to take a comprehensive approach to meaningful campaign finance reform, not next year, the year after, but this year, this fall.

So I just hope that everybody understands the ramifications of a letter like this. This is unprecedented. I have looked back and our staffs have investigated the matter. We have never had an occasion where every single member of the Democratic caucus has signed on to one piece of legislation that is bipartisan, that is a direct intention or represents a direct intention to pass comprehensive campaign finance reform. It has never happened before.

So this is an unprecedented and an extraordinarily strong statement on behalf of a lot of Senators who want to see something happen this year, who believe it can happen this year, who want to deal with spending limits, who want to deal with soft money, who want to ensure that somehow we are able to deal effectively with independent expenditures and these growing problems with ''issue'' ads, who want to see stronger enforcement of disclosure rules, who want to ban foreign contributions, who want to further limit the effort to put some end to the madness in campaigns today when it comes to financing.

How tragic, how ironic it would be if, after all that we have read and all the print and all the time on television about investigations and speeches and intentions for change, and all the things that are going on currently in the Governmental Affairs Committee, after all that we said, our response is to do nothing at all, our response is to ignore the overwhelming evidence that something has to be done.

One does not have to go through campaign cycle after campaign cycle to come to the conclusion that something is wrong in the system and something needs to be done in a comprehensive way to address the system, all of the difficulties we have, in a much more constructive and effective way than we have on the books today.

That is why what Senators MCCAIN and FEINGOLD are doing is so laudatory. That is why what they are doing deserves not only Democratic but strong Republican support. That is why we cannot lose the momentum and let this opportunity pass us by. That is why we wrote the letter and why it is important now that we commit to an opportunity to resolve these issues this year, before we leave.

So, Mr. President, I am very hopeful that this will add renewed momentum to the effort that I know is already underway in a very diligent manner by our colleagues and by others who have worked on this issue for as long as they have.

Our history on campaign finance reform is not a good one. There have been too many lost efforts. There have been too many lost opportunities. There have been too many partisan divisions and extraordinarily confrontational fights on the floor in an effort to move something in the past.

At various times we actually did move a bill through the Senate, at one point all the way to the President's desk, only to have it vetoed. Let us not have that happen again. President Clinton has said he will sign the McCain-Feingold bill if it gets to his desk.

I have no doubt in my mind, if we ever got to a debate on the Senate floor, an overwhelming number of Senators, Republican and Democrat, would support something like this. Let us work our will. Let us come up with amendments. Let us try to find ways in which to come together rather than to be split apart on this issue in the future.

Will we have unanimity? No. But can we achieve a meaningful, overwhelming consensus on this issue? My guess is, absolutely, yes, we can.

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

Mr. DASCHLE. I will be happy to yield.

Mr. DORGAN. Mr. President, this is quite a remarkable day. I am enormously gratified by the announcement. We have 45 members of our caucus, every single member of our caucus, who signed a letter saying we support the comprehensive campaign finance reform bill called McCain-Feingold. There are three cosponsors, I think, on the other side. That brings to 48 the

number of people who have signed up to say, ''We will vote for comprehensive campaign finance reform.''

There are some around this town who I think are quitters on this issue. This is not a time to quit. They say, ''Well, it's clear you can't get much done. Just do a little piece over here.'' This is the wrong time to quit. We have 45 people in our caucus who have said they will vote for comprehensive campaign finance reform of our campaign finance system and at least three other cosponsors. We are at 48 votes just with that. And the question is, are there two other votes out there? Are there two other votes? I think there are.

So, those who say this cannot be done, I think what we are demonstrating here with this letter is a substantial reservoir of support to say this system is broken, this system needs fixing, and it ought not be done with a niche over here. Let us do it with comprehensive campaign finance reform that is embodied in the McCain-Feingold proposal.

I ask the Senator from South Dakota—I noticed we have had 3,361 floor speeches on campaign finance reform. So that is 3,362, and mine is 3,363, and we will have a couple more, I reckon. We have had 446 legislative proposals on campaign finance reform. If ever there was a demonstration of this statement that when all is said and done, more is said than done, it must certainly be on campaign finance reform.

Isn't it the case that with this news that we have one caucus with 45 people who have signed up and with several others already cosponsoring, that we are within striking distance of having the opportunity to pass comprehensive campaign finance reform?

Mr. DASCHLE. The Senator is absolutely right. You do not have to be a math whiz to count the numbers, to figure out what it takes to get us to 50. Because if we had 50, of course, the Vice President would be there to break a tie. God forbid we would have to call upon him to do so. My guess is, as I said a moment ago, there would be an overwhelming vote.

But to get us to 50, we just need 2 more votes, two more people. If 2 Republican Senators would come forth and indicate their support publicly, that would be 50 votes. That would be, with the Vice President should he be needed, the majority necessary to pass it this year. In fact, this afternoon.

So, there is absolutely no question that we are now within striking range, within reach, of an opportunity to pass it in the not too distant future. It really is an extraordinary opportunity, one that I would not have guessed we could have reached at this point, but we have, in large measure because of the unanimity of our caucus and because of the courage and leadership of some of our Republican colleagues to date.

Mr. DURBIN. Will the minority leader yield?

Mr. DASCHLE. I am happy to yield to the Senator from Illinois.

Mr. DURBIN. I thank the Senator for taking the floor on this issue. It is a very timely issue.

I am a member of the Governmental Affairs Committee, and we have been engaged in months of preparation and weeks of deliberation on the question of campaign finance. Over $4 million will be spent on this investigation. Seventy lawyers have been hired. We have issued hundreds of subpoenas for documents, and we have brought before our committee dozens of witnesses, most under oath, and some with grants of immunity, and yet it does not seem what we are doing has resonated.

I think what it suggests is that, if this committee had started off with the premise that when their deliberations had been completed we would come forward with campaign finance reform, the 1998 election would look different to the American voters and I think the public interest would have been heightened in our effort.

Unfortunately, if we just find ourselves recapitulating the sins of the past instead of talking about real reform, it does not strike a resonant cord. The recent vote in the primary in New York City, which was very low, and the vote last November, the lowest percentage turnout for a Presidential election in 72 years, should be a signal to us and to every politician: The more money we spend on campaigns, the fewer voters turn out to vote.

Now, that is a message, unfortunately, of a growing cynicism about this system. Those of us who believe in this democracy and believe in this Government and believe that we as a democracy have the capacity to change in the right direction, have to move forward in a positive way.

I want to congratulate the minority leader, Senator DASCHLE. Forty-five Democrats coming together behind us, with three Republican sponsors, puts us within striking distance. Within hours—within hours—we could have two Republican Senators this afternoon say, ''That's it, we have decided we will join.''

It is time for campaign finance reform. We could achieve it before we leave at the end of this year. If we do not, I suggest that it is only going to add to the public's cynicism. I certainly hope that is not the case.

I salute the Senator for his leadership and thank him for bringing this matter to the forefront.

Mr. DASCHLE. I thank the Senator from Illinois for his eloquence and his comments. He is absolutely right. I think this failure, should we experience it again, would add to the cynicism. On the other hand, if we could pass it, it would do so much to instill new confidence and new admiration for the legislative process, and I think restore hope in democracy itself.

This is a rare opportunity. We have the momentum. We have demonstrated the votes now are there. I think it is simply a matter of continuing to ensure that we strike an agreement with regard to scheduling this legislation in the not too distant future. We can do it this week. We can do it within a very short period of time. We do not need a lot of time for debate. We can make this happen. We just need a commitment that we will make it happen. I do not know that the country could be any more pleased with the results of what I would consider to be one of the most consequential accomplishments of this session of Congress.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, let me thank the Senator from South Dakota, our Democratic leader, for this initiative.

I think you have to understand that the momentum is there because people are concerned, Senators are concerned, politicians are concerned with the turnout, with the cynicism, with all the problems we are facing in this political arena.

In 1974, when I ran for the U.S. Senate the first time, the average cost of a Senate race in this country was $425,000. In 1996, it was $4.4 million. The race in Kentucky would probably be a $5 million race on each side—$10 million or more, to run for the U.S. Senate from a small State like Kentucky.

There is not a Senator that I know of, not a Senator, that enjoys raising money—enjoys raising money—making calls, calling people they have never heard of before. Some group organized to help with a fundraiser gives you a list to call. These are what we referred to as ''cold calls'' when I was growing up. A cold call is calling somebody you never heard of and asking for money so that you can run your race.

I think we ought to take the M and M's out of politics—money and meanness, money and meanness. The more money you have, the meaner you can become. I listened to a Senator who was defeated who had a lot of mean ads run against him. He said by the end of the campaign he did not like himself. It gets pretty rough, so we need to take the money out.

We hear a lot about free speech. I understand it. I can go outside and start talking. That is free speech. I can go over to Courthouse Square in my hometown and make a speech to nobody. That is free speech. I can do all of those things. But what we are talking about here is paid speech, paid speech. The more money you have, the more speech you have, but it is paid speech. It is television, it is radio, it is newspapers. Why, some places they make more money off of a political campaign—they want one every year, every 6 months, because we will raise the money to be competitive. Let's be competitive as individuals. Let's be competitive on the issues. Let's be competitive by seeing people and convincing them that your position and what you want to do is right, that you represent a party of principles—families first. Get out there and talk to people.

In Kentucky, we had our first election last year in the Governor's race where you had a limited amount of money you could spend. With all of its warts, the two candidates stayed on the road. They did not fly in airplanes because it cost too much. They were looking for every Kiwanis Club, every Rotary Club, every Jaycees, every Lion's Club they could get to. There were an unprecedented 41 joint appearances. We used to have a joint appearance on television. It was on Kentucky educational television. It was a night Kentucky played for the championship of the NCAA basketball. They even sent the cubs out there to cover it, so no one really watched it. But when we limited the amount of money and limited what they could do, they had to see people, they had to talk about issues, they had to believe in what they were saying.

Mr. President, now is the time to say to this country, ''Let us get back to the people. Let us get back to issues. Let us get back to shaking hands and saying, 'I want your vote.''' Look them in the eye and they can ask you questions. That is the way we ought to run political campaigns. That is the kind of political campaign I like to run.

Now we have that opportunity. We can touch it with our fingernails. We can touch it with our fingernails. If only two more Republicans will join, we will have the 50 votes necessary to say we have a comprehensive campaign finance reform bill that will be so important not only to the American people but to us as representatives of the American people. We will not be beholden to people we have never known.

Mr. President, I hope we will join together now and give the American people what I believe they want—less money in politics, more personal contact.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Let me briefly commend our leader, the Democratic leader, for soliciting the support of the 44 others of us who make up this caucus, the Democratic caucus. There are 45 members of this caucus, and all 45 members have signed this letter urging the adoption of the legislation introduced by our colleague, JOHN MCCAIN, from the Republican side and RUSS FEINGOLD from our side.

I think, as the leader has said, this is not a perfect bill. I have disagreements with it. I do not applaud every single dotted ''i'' and crossed ''t,'' nor do I assume anyone else does, but it is a common vehicle to embrace most of the positions we would like to see adopted as campaign finance reform. The fact that 100 percent of those of us on this side have joined in this letter, I think, is a strong indication of our commitment to this issue.

It would not have happened had it not been for our leader on this side. I want to commend him publicly for his leadership on this issue as he has demonstrated in so many other areas and urge that his words be heeded and we try to get some additional sponsors here and see if we cannot bring this up.

NOMINATIONS OF JANET HALL AND CHRISTOPHER F. DRONEY

Mr. DODD. Mr. President, I want to briefly say to my colleagues, we will vote in a few minutes on two nominees for the Federal district court bench, Janet Hall and Christopher Droney.

Senator LIEBERMAN and I have appeared before the Judiciary Committee on their behalf. I see our colleague from Alabama here on the floor, who is a member of that committee and who very graciously heard the two nominees.

They are two very highly confident, very qualified nominees. Janet Hall has superlative work experience, both in government service and in private practice. She has worked in the Antitrust Division of the Justice Department from 1975 to 1979. She later joined one of the finest law firms in the State of Connecticut, Robinson and Cole, where she has been a partner since 1982. She has appeared before Federal, State, and appellate courts, and even the U.S. Supreme Court, and her work has focused primarily on complex commercial litigation. In short, she is a very, very fine nominee.

She is a graduate of Mount Holyoke College and the New York University School of Law. She has received numerous awards and recognitions including Mount Holyoke's Alumnae Medal of Honor, and she has served on the Board of the Connecticut Bar Foundation since 1993. She also serves on the Parents' Advisory Committee of her hometown high school and has volunteered in numerous other activities in her community.

She is a very fine lawyer, a very fine person, very community oriented, and she brings wonderful legal knowledge and expertise to this nomination. I am confident that my colleagues across political lines here will be very proud of their vote in casting it this afternoon for Janet Hall to be a district court judge in Connecticut.

The other nominee is Christopher F. Droney. Some of our colleagues know Christopher Droney. He has been our U.S. attorney in Connecticut for the last 4 or 5 years and a very successful one. He is known as one of the leading U.S. attorneys in the country for his anticrime efforts, and in particular for fighting juvenile crime.

I might point out that he also knows something about what it is like to be in elective office. He served as the mayor of West Hartford, CT, and did a wonderful job there. He is a graduate of the University of Connecticut Law School, where he was on the Law Review. He was named Citizen of the Year by the Connecticut District of the Boy Scouts of America, and he received the Distinguished Law Enforcement Award from the Hartford Police Union. He also received special recognition award from the Spanish-American Merchants Association. He is very community-oriented and very successful in his community activities. He is a member of the Federal Bar Council, a member of the St. Timothy Roman Catholic Church in his community, and very involved in the YMCA and YWCA in our State, as well.

Again, given his background experience as a U.S. attorney, I think my colleagues can feel very, very proud, Mr. President, in casting a vote this afternoon to confirm the nomination of Christopher Droney, as well, to be a district court judge in Connecticut. I urge support for these nominees. I think they will do us all proud. The Senate can be proud of the work they will perform on behalf of all of us. I yield the floor.

EXECUTIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session to consider a series of nominations.

NOMINATION OF JOSEPH F. BATAILLON OF NEBRASKA TO BE U.S DISTRICT JUDGE FOR THE DISTRICT OF NEBRASKA

The legislative clerk read the nomination of Joseph F. Bataillon of Nebraska to be U.S District Judge for the District of Nebraska.

Mr. GORTON. Have the yeas and nays been requested with respect to either this nomination or either of the two succeeding nominations?

The PRESIDING OFFICER. They have not.

Mr. GORTON. I ask unanimous consent I be permitted to make one request that the yeas and nays be ordered and it apply to all three nominees.

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

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered on the three nominations.

There are 2 minutes of debate.

The PRESIDING OFFICER [Mr. GRAMS]. Does any Senator wish to speak on the nomination?

Mr. KERREY. Mr. President, I just rise to offer my strong support for Joe Bataillon, a man who I have known for a number of years, and the Chair does as well. He served in the Judge Advocate Corps. He has been a lawyer in Omaha. He has gotten high marks from anybody who has interviewed him, on both sides of the aisle. The judges like him. He is a crucial appointment. I appreciate very much the majority leader scheduling this vote. I encourage my colleagues to vote for him.

The PRESIDING OFFICER. Are there any other Senators who wish to speak?

Mr. GORTON. Mr. President, I yield back the balance of our time on the first nomination.

The PRESIDING OFFICER. All time is yielded back.

The question is, will the Senate advise and consent to the nomination of Joseph F. Bataillon, of Nebraska, to be U.S. District Judge for the District of Nebraska. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 100, nays 0, as follows:

[Rollcall Vote No. 236 Ex.]

YEAS—100

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

The nomination was confirmed.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. LOTT. Mr. President, I ask unanimous consent that the remaining two votes in this sequence be limited to 10 minutes in length.

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

Mr. LOTT. Mr. President, I believe we are ready to proceed to the next vote.

NOMINATION OF CHRISTOPHER F. DRONEY, OF CONNECTICUT, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF CONNECTICUT

The PRESIDING OFFICER (Mr. INHOFE). The clerk will report.

The legislative clerk read the nomination of Christopher F. Droney, of Connecticut, to be United States District Judge for the District of Connecticut.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. The Senate is not in order.

Mr. President, I understand that we have a minute on each side.

Mr. LOTT. That is correct.

Mr. LEAHY. I ask the Chair to call the Senate to order before my time begins.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Vermont.

Mr. LEAHY. Mr. President, I do not intend to start until the Senate is in order.

The PRESIDING OFFICER. Will the Senate please come to order.

The Senator from Vermont.

Mr. LEAHY. Mr. President, we will confirm three judges this afternoon.

I ask my colleagues to look at the chart, which indicates the shameful lack of progress of this Senate in considering judicial nominations. We still have approximately 100 judicial vacancies. When we adjourned last year there were 64 vacancies and when we began this Congress there were about 74 vacancies. We are confirming judges far slower than the vacancies are occurring through death, attrition, retirements, and so forth. Even with the three judges we are confirming today, there has been a net increase in vacancies of over 30 in the last year. In fact, vacancies on the federal courts around the country have increased by more than 50 percent over the last year.

I ask, as I have many, many times, that the majority leader, whose caucus has held back these judges, allow them to go forward. We see what happens when we have a vote on them. It is unanimous. You keep hearing that there are concerns about these judges, and then no Senator votes against them.

Let us bring them forward. I ask that one of the first we proceed to consider be Margaret Morrow, who seems to be held up only because she is a woman—only because she is a woman. There is no reason to hold up that judicial nomination. Let it be voted. If people do not want her, vote against her. If they want her, vote for her. But let's have a vote on this.

We are not helping the independence—in fact, we are diminishing the independence—of the Federal judiciary.

Mr. President, I am encouraged that the Senate is taking up three of the six judicial nominations from the Executive Calendar.

I am delighted to see the Senate confirm Joseph F. Bataillon to be a U.S. District Judge for the District of Nebraska. He served as deputy public defender for Douglas County, NE before entering private practice as a trial attorney in Omaha. He is supported by Senator KERREY and Senator HAGEL. The ABA found him to be qualified for this judicial appointment. Mr. Bataillon's nomination was first received by the Senate in March 1996 over 17 months ago. Unfortunately, this was one of the nominations caught up in the election year slowdown last year. I congratulate Mr. Bataillon and his family and look forward to his service on the district court.

I am also delighted that the Senate majority leader has decided to take up the nomination of Christopher F. Droney to be a U.S. District Judge for the District of Connecticut. The nominee has served as U.S. Attorney in Connecticut since 1993. The ABA has unanimously found him to be qualified for this judicial appointment. With the strong support of Senator DODD and Senator LIEBERMAN, this nomination has moved through the Committee and now to confirmation. I congratulate Mr. Droney and his family and look forward to his service on the district court.

Likewise, I am delighted to see the Senate moving forward to consider Janet C. Hall to be a U.S. District Judge for the same district. Since 1980, this nominee has practiced law in Hartford and prior to that she had served as a special assistant U.S. attorney and trial attorney for the Antitrust Division of the Department of Justice. The ABA unanimously found her to be well qualified, its highest rating. This nomination also has the strong support of Senator DODD and Senator LIEBERMAN. I congratulate Ms. Hall and her family and look forward to her service on the district court.

In spite of the progress we have made over the last week in confirming six judicial nominations, we still have some 40 nominees among the 65 nominations sent to the Senate by the President who are pending before the Judiciary Committee and 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 renominated by the President. 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 over 2 years ago persist. The committee has 12 nominees who have been pending for more than a year, including seven who have been pending since 1995.

So, while I am encouraged that the Senate is today proceeding with the longstanding nomination of Joseph Bataillon and those of Chris Droney and Janet Hall, there is no excuse for the committee's delay in considering the nominations of such outstanding individuals as Professor William A. Fletcher, Judge James A. Beaty, Jr., Judge Richard A. Paez, Ms. M. Margaret McKeown, Ms. 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 favorably reported last year. Judge Paez and Ms. Aiken had hearings last year but have been passed over so far this year.

Thus, even with the increased activity of the last week in which the Senate has confirmed six nominees and raised by 67 percent the number of judges confirmed all year, we continue to lag well behind the pace established by the 104th Congress. By this time 2 years ago, the Senate had confirmed 36 Federal judges. With today's actions, the Senate will have confirmed only 15 judges. We still face almost 100 vacancies and have 50 nominees yet to consider.

For purposes of perspective, let us also recall that by August 1992, during the last year of the President Bush's term, a Democratic majority in the Senate had confirmed 53 of the 65 nominees sent to us by a Republican President. That, too, is a far cry from this year's 15 out of 65.

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 dozens of emergency districts, in particular, are growing taller by the day.

I have spoken often about the crisis being created by the vacancies that are being perpetuated on the Federal courts around the country. At the rate that we are going, we are not keeping up with attrition. When we adjourned last Congress there were 64 vacancies on the Federal bench. After the confirmation of 15 judges in 9 months, there has been a net increase of 33 vacancies. The Chief Justice of the Supreme Court has called the rising number of vacancies ''the most immediate problem we face in the federal judiciary.''

The Courts Subcommittee heard on Thursday afternoon from second and eighth circuit judges about the adverse impact of vacancies on the ability of the Federal courts to do justice. The effect is seen in extended delay in the hearing and determination of cases and the frustration that litigants are forced to endure. The crushing caseload will force Federal courts to rely more and more on senior judges, visiting judges and court staff.

Judges from the Second Circuit Court of Appeals testified, for example, that over 80 percent of its appellate court panels over the next 12 months cannot be filled by members of that Court but will have to be filled by visiting judges. This is wrong.

We ought to proceed without delay to consider the nomination of Judge Sonia Sotomayor to the second circuit and move promptly to fill vacancies that are plaguing the second and ninth's circuits. We need to fill the 5-year-old vacancy in the Northern District of New York and move on nominations for judicial emergency districts.

In choosing to proceed on these three nominees, the Republican leadership has chosen for the third time in a week to skip over the nomination of Margaret Morrow. I, again, urge the Senate to consider the long-pending nomination of Margaret Morrow to be a district court judge for the Central District of California.

Ms. Morrow was first nominated on May 9, 1996—not this year but May of 1996. She had a confirmation 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 while she underwent rounds of written questions. When she was finally considered on June 12, she was again favorably reported with the support of Chairman HATCH. She has been left pending on the Senate Executive Calendar for more 3 months and has been passed over, time and again without explanation or justification.

This is an outstanding nominee to the district court. She is exceptionally well qualified to be a Federal judge. I have heard no one contend to the contrary. She has been put through the proverbial wringer—including at one point being asked her private views, how she voted, on 160 California initiatives over the last 10 years.

The committee insisted that she do a homework project on Robert Bork's writings and on the jurisprudence of original intent. Is that what is required to be confirmed to the district court in this Congress?

With respect to the issue of judicial activism, we have the nominee's views. She told the committee: ''The specific role of a trial judge is to apply the law as enacted by Congress and interpreted by the Supreme Court and Courts of Appeals. His or her role is not to 'make law.'" She also noted: ''Given the restrictions of the case and controversy requirement, and the limited nature of legal remedies available, the courts are ill equipped to resolve the broad problems facing our society, and should not undertake to do so. That is the job of the legislative and executive branches in our constitutional structure.''

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 an 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. The president of the Woman Lawyers Association of Los Angeles, the President of the Women's Legal Defense Fund, 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 to young women across the country.'' I could not agree more.

Mr. President, the Senate should move expeditiously to consider and confirm Margaret Morrow, along with Anthony Ishii and Katherine Hayden Sweeney to be district court judges.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I hear these cries of hysteria all the time on judges. Let's be honest about it.

So far this year we processed out of committee 24 nominees. Fifteen have been confirmed. Three will be left after this, and six are pending in the committee. We will have another hearing within a week on another five or six, and another hearing after that. So we are moving ahead quite well.

Let's understand something. There are more sitting judges today than there were throughout virtually all of the Reagan and Bush administrations, as of right now. As of August 10, we had 742 active Federal judges.

Let's just be honest about it. In the 101st Congress and the 102d Congress by contrast, when a Democrat controlled Congress was processing President Bush's nominees, there were only 711 and 716 active judges. The fact of matter is that we have not had a White House processing these people very fast. And there are some who have problems.

Mr. President, we received 13 new nominees just before the August recess, and a few more just a short while ago. They have not even been processed yet.

We are doing our best. All I can say is that there is room here to realize that we are doing a fairly good job. We can do a better job. But the White House has not been doing its job in a full effect. And, frankly, we still have something like 53 total pending out of the 98 vacancies.

Mr. DODD. Mr. President, I consider my role in making recommendations to the President on judicial nominees to be one of the most important parts of my job as a Senator. It is imperative that we fill these lifetime positions

with the most able and talented individuals available. That is why I am very pleased that President Clinton chose to nominate Mr. Droney to serve on the Federal bench.

Chris Droney is a man of strong character, and I believe that his skills and intellect will enable him to serve the country with honor and integrity as a Federal judge. Since 1993, Mr. Droney has served as the U.S. attorney for Connecticut. During his tenure, he has been well-received by the judiciary and law enforcement agencies and has played a key role in the State's crackdown on street gangs. The Justice Department's last evaluation of his office concluded that Mr. Droney is, and I quote, ''strongly committed to the Department's law enforcement priorities and has demonstrated significant leadership in the law enforcement community, as witnessed by the remarkable cooperation among the law enforcement agencies through the District.'' We are proud that the Justice Department has recognized what we in Connecticut already know: Chris Droney is an outstanding lawyer and public servant.

Prior to becoming U.S. attorney, Mr. Droney was in private practice in Hartford specializing in civil litigation. He also served as mayor of West Hartford from 1985 to 1989, where he did an excellent job.

He has been very active in a number of charitable organizations, and his community service has earned him several honors and awards. In particular, he was named Citizen of the Year by the Connecticut division of the Boy Scouts of America, and he received the Distinguished Law Enforcement Award from the Hartford Police Union.

Christopher Droney is an honest, forthright, and intelligent individual, who is highly qualified to serve on the Federal bench. I am confident that he will serve Connecticut well as a district judge for many years to come, and I strongly urge all of my colleagues to support his nomination.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Christopher Droney, of Connecticut, to be U.S. District Judge for District of Connecticut. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 100, nays 0, as follows:

[Rollcall Vote No. 237 Ex.]

YEAS—100

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

The nomination was confirmed.

The PRESIDING OFFICER. The Senator from Washington.

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

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

The motion to lay on the table was agreed to.

NOMINATION OF JANET C. HALL OF CONNECTICUT, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF CONNECTICUT

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read the nomination of Janet C. Hall, of Connecticut, to be U.S. District Judge for the District of Connecticut.

The PRESIDING OFFICER. There will be 2 minutes of debate equally divided. The Senator from Arizona.

Mr. McCAIN. Mr. President, I support this judge. I would like to make a comment.

Mr. LEAHY. Mr. President, the Senate is not in order. The Senator should be allowed to be heard.

The PRESIDING OFFICER. The Senator is correct.

CAMPAIGN FINANCE REFORM

Mr. McCAIN. Mr. President, I noted several of my colleagues, a number of my colleagues from the other side of the aisle, signed a letter this morning concerning campaign finance reform and a number of them came and spoke about the urgency of the issue. Obviously, we welcome that activity. But I want to point out, and point out in the strongest possible terms, that this issue has to be brought up in a bipartisan fashion. It is not 51 votes that are necessary in order to pass any legislation through this body on an issue of this importance, it is going to be 60 votes.

I have been working with the majority leader in a most cooperative fashion on this issue. I believe that we can reach an agreement which would be satisfactory to all parties. I do not believe it will be helpful, in any way, to divide up on party lines on this issue.

I again thank the majority leader but I also thank my colleagues on the other side of the aisle. I am confident we can move forward on this issue.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, A question has been raised about statistics. I would point out that during President Bush's last year, with the Democrats in the control of the Senate, by August we had confirmed 53 of the 65 nominees sent to us by the Republican President, notwithstanding the ''Thurmond rule'' which calls for a slowdown in confirmations during a Presidential year—53 out of 65.

In this the first year of President Clinton's second term, the Republican-controlled Senate confirmed only 9 out of 61 judicial nominees sent by the President to the Senate by August. So the relevant statistical comparison is 53 out of 65 when Democrats were helping Republicans, but when Republicans are in control and there is a Democratic President, only 9 out of 61.

I yield the remainder of my time to the distinguished senior Senator from California.

Mrs. FEINSTEIN. I thank the distinguished ranking member.

Mr. President, while I am pleased that we are voting today on three judicial nominees and I am supporting them, I am concerned about those whom we are not voting upon—in particular two fine nominees from California.

I am also concerned about what appears to me to be a plan to force the splitting of the U.S. Court of Appeals for the Ninth Circuit by crippling its ability to do its work.

Ten of the twenty-eight judgeships on that court are now vacant—36 percent of the bench.

I will ask unanimous consent that a table showing the status of each vacancy within the ninth circuit be place in the RECORD following my remarks.

I believe that proponents of the ninth circuit split wish to keep these seats vacant as long as possible, so that the vacant judgeships can then be transferred to the new twelfth circuit, and filled by judges who they hope will be more in line with their own political philosophy.

Unfortunately, this plan is substantially impairing the ability of the ninth circuit to do its job, and impeding justice for the millions of Americans who live within the ninth circuit—creating what the Honorable Proctor Hug, chief justice of the ninth circuit, has called a vacancy crisis.

The time has come for the Senate to end this death by attrition, and act upon these nominations, so that the ninth circuit can get on with its work.

These votes we are taking today will clear out all the judicial nominees who remain on the executive calendar, except for three, two of whom, as I have mentioned, are from California

These two nominees, Margaret Morrow and Anthony Ishii, have had their nominations pending longer, both in the Senate and on the floor of the Senate, than have two of the three nominees upon whom we are voting today.

Margaret Morrow was first nominated almost a year and a half ago, on

March 18, 1996. She was favorably reported by the Judiciary Committee on June 27, 1996, but the Senate failed to take further action upon her nomination before we adjourned.

She was nominated again in the beginning of this year, and favorably reported by the committee again on June 12, 1997.

Anthony Ishii was nominated on February 12, 1997, and has been on the floor since July 10.

In contrast, Christopher Droney and Janet Hall were nominated on June 5, 1997, and have only been on the floor since July 31.

So while I am happy that we are acting upon their nominations, I hope that we will soon act upon the older nominations of Margaret Morrow and Anthony Ishii.

Let's bring their nominations up, debate them if necessary, and vote them up or down.

I urge the distinguished majority leader to do this, I thank the chair, and I yield the floor.

Mr. President, I ask unanimous consent a table regarding the ninth circuit vacancies be printed in the RECORD.

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

Court and vacancy created by—	Reason	Vacancy date	Nominee	Nomination date
NINTH CIRCUIT				
CCA:				
Breezer, Robert R.	Senior	7/31/96		
Canby, William C. Jr	Senior	5/23/96		
Farris, Jerome	Senior	3/4/95	McKeown, M. Margaret	1/7/97
Hall, Cynthia Holcomb	Senior	8/31/97		
Leavy, Edward	Senior	5/19/97	Graber, Susan	7/30/97
Noonan, John T	Senior	1/1/97		
Norris, William A	Senior	7/7/94	Fletcher, William A	1/7/97
Poole, Cecil F	Senior	1/15/96	Paez, Richard A	1/7/97
Wallace, J. Clifford	Senior	4/8/96	Ware, James S	6/27/97
Wiggins, Charles E	Senior	12/31/96		
CA–N:				
Aguilar, Robert P	Senior	6/24/96		
Jensen, D. Lowell	Senior	6/27/97	Breyer, Charles R	7/24/97
Lynch, Eugene F	Senior	3/14/97	Jenkins, Martin J	7/24/97
CA–E:				
Coyle, Robert E	Senior	5/13/96	Ishii, Anthony W	2/12/97
Garcia, Edward J	Senior	11/24/96	Damrell, Frank C	2/24/97
CA–C:				
Gadbois, Richard A. Jr	Disabled	1/24/96	Morrow, Margaret M	1/7/97
Hupp, Harry L	Senior	1/1/97		
Rafeedie, Edward	Senior	1/6/96	Snyder, Christina A	1/7/97
Takasugi, Robert M	Senior	9/30/96	Moreno, Carlos R	7/31/97
CA–S: Rhoades, John S. Sr	Senior	11/4/95	Lasry, Lynne R	2/12/97
HI: Fong, Harold M	Deceased	4/20/95	Mollway, Susan Oki	1/7/97
OR:				
Frye, Helen	Senior	12/10/95		
Redden, James	Senior	3/13/95	Aiken, Ann L	1/7/97
WA–E: McDonald, Alan A	Senior	12/13/96		

Mr. DODD. Mr. President, Ms. Hall is one of the premier litigators in the State of Connecticut, and I know that her impressive work experience, both in Government service and in private practice, along with her intelligence and character, will enable her to become an excellent Federal judge.

After working in the Antitrust Division of the Justice Department from 1975 to 1979, Ms. Hall joined the Hartford law firm of Robinson & Cole, where she has been a partner since 1982. Since returning to private practice, she has handled numerous matters before both Federal and State appellate courts, and her work has focused primarily on complex commercial litigation.

Ms. Hall is respected throughout Connecticut's legal community for her intelligence and sense of fairness, but she is best known for her dedicated work ethic. More than one associate at her firm described her as the hardest working, most prepared lawyer that they had ever known. Not only does Ms. Hall push herself, but she also expects a lot from those around her. Her former secretary said that the only time that she was bored during 14 years of working with Ms. Hall was when she was on maternity leave with her third child. However, while Ms. Hall can be tough on others, she always demanded even more from herself.

Part of me is actually relieved that I'm no longer an attorney in Connecticut, because I anticipate that trying a case before Ms. Hall would not be an easy day's work.

Janet Hall is unquestionably an excellent attorney, but she is also a person of great character and integrity. While Ms. Hall always worked hard to fulfill her responsibilities at her firm, she always managed to keep her career in perspective, and her family was always her top priority.

After successfully arguing a case before the U.S. Supreme Court, she was discussing the case with a group of associates. When asked to describe what was the most important thing to remember about arguing the case before the highest Court in the land, she said, ''The most important thing was to bring my family.''

In closing, Janet Hall is an honest, forthright, and intelligent individual, who is highly qualified to serve on the Federal bench, and all of my colleagues should be proud to vote in support of her nomination.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Janet C. Hall, of Connecticut, to be United States district judge for the District of Connecticut? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Arkansas [Mr. HUTCHINSON] is necessarily absent.

The PRESIDING OFFICER (Mr. KEMPTHORNE). Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 98, nays 1, as follows:

[Rollcall Vote No. 238 Ex.]

YEAS—98

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

NAYS—1

Faircloth

NOT VOTING—1

Hutchinson

The nomination was confirmed.

Mr. GORTON. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

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

The motion to lay on the table was agreed to.

EXECUTIVE CALENDAR

The PRESIDING OFFICER. Under the previous order, Executive Calendar Nos. 238, 239, 245, and 247 are confirmed.

The nominations considered and confirmed are as follows:

DEPARTMENT OF JUSTICE

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, Jr., of the Virgin Islands, to be United States Attorney for the District of the Virgin Islands for the term of four years.

CORPORATION FOR PUBLIC BROADCASTING

Katherine Milner Anderson, of Virginia, to be a Member of the Board of Directors of the Corporation for Public Broadcasting for a term expiring January 31, 2000.

CORPORATION FOR PUBLIC BROADCASTING

Heidi H. Schulman, of California, to be a Member of the Board of Directors of the Corporation for Public Broadcasting for a term expiring January 31, 2002.

The PRESIDING OFFICER. Under the previous order, the President will be notified of the confirmation of the nominations.

LEGISLATIVE SESSION

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

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

The Senate proceeded with the consideration of the bill.

Mr. GORTON. I ask unanimous consent the Senate proceed to the consideration of Calendar No. 122, H.R. 2107, a bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1998, and for other purposes.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A bill (H.R. 2107) making appropriations for the Department of the Interior and related agencies for fiscal year ending September 30, 1998, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Appropriations, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted as shown in italic.)

H.R. 2107

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

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1998, and for other purposes, namely:

TITLE I—DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

For expenses necessary for protection, use, improvement, development, disposal, cadastral surveying, classification, acquisition of easements and other interests in lands, and performance of other functions, including maintenance of facilities, as authorized by law, in the management of lands and their resources under the jurisdiction of the Bureau of Land Management, including the general administration of the Bureau, and assessment of mineral potential of public lands pursuant to Public Law 96–487 (16 U.S.C. 3150(a)), **[**$581,591,000**]** *$578,851,000,* to remain available until expended, of which $2,043,000 shall be available for assessment of the mineral potential of public lands in Alaska pursuant to section 1010 of Public Law 96–487 (16 U.S.C. 3150); and of which $3,000,000 shall be derived from the special receipt account established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 460l–6a(i)); and of which $1,500,000 shall be available in fiscal year 1998 subject to a match by at least an equal amount by the National Fish and Wildlife Foundation, to such Foundation for challenge cost share projects supporting fish and wildlife conservation affecting Bureau lands; in addition, **[**$27,300,000**]** *$27,650,000* for Mining Law Administration program operations, to remain available until expended, to be reduced by amounts collected by the Bureau and credited to this appropriation from annual mining claim fees so as to result in a final appropriation estimated at not more than **[**$581,591,000**]** *$578,851,000*; and in addition, not to exceed $5,000,000, to remain available until expended, from annual mining claim fees; which shall be credited to this account for the costs of administering the mining claim fee program, and $2,000,000 from communication site rental fees established by the Bureau for the cost of administering communication site activities: *Provided,* That appropriations herein made shall not be available for the destruction of healthy, unadopted, wild horses and burros in the care of the Bureau or its contractors.

WILDLAND FIRE MANAGEMENT

For necessary expenses for fire use and management, fire preparedness, suppression operations, and emergency rehabilitation by the Department of the Interior, **[**$280,103,000**]** *$282,728,000,* to remain available until expended, of which not to exceed **[**$5,025,000**]** *$6,950,000* shall be for the renovation or construction of fire facilities: *Provided,* That such funds are also available for repayment of advances to other appropriation accounts from which funds were previously transferred for such purposes: *Provided further,* That persons hired pursuant to 43 U.S.C. 1469 may be furnished subsistence and lodging without cost from funds available from this appropriation.

CENTRAL HAZARDOUS MATERIALS FUND

For necessary expenses of the Department of the Interior and any of its component offices and bureaus for the remedial action, including associated activities, of hazardous waste substances, pollutants, or contaminants pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended (42 U.S.C. 9601 et seq.), **[**$12,000,000**]** *$14,900,000,* to remain available until expended: *Provided,* That notwithstanding 31 U.S.C. 3302, sums recovered from or paid by a party in advance of or as reimbursement for remedial action or response activities conducted by the Department pursuant to section 107 or 113(f) of such Act, shall be credited to this account to be available until expended without further appropriation: *Provided further,* That such sums recovered from or paid by any party are not limited to monetary payments and may include stocks, bonds or other personal or real property, which may be retained, liquidated, or otherwise disposed of by the Secretary and which shall be credited to this account.

CONSTRUCTION

For construction of buildings, recreation facilities, roads, trails, and appurtenant facilities, **[**$3,254,000**]** *$3,154,000,* to remain available until expended.

PAYMENTS IN LIEU OF TAXES

For expenses necessary to implement the Act of October 20, 1976, as amended, (31 U.S.C. 6901–6907), **[**$113,500,000**]** *$120,000,000,* of which not to exceed $400,000 shall be available for administrative expenses: *Provided,* That no payment shall be made to otherwise eligible units of local government if the computed amount of the payment is less than $100.

LAND ACQUISITION

For expenses necessary to carry out sections 205, 206, and 318(d) of Public Law 94–579, including administrative expenses and acquisition of lands or waters, or interests therein, **[**$12,000,000**]** *$9,400,000,* to be derived from the Land and Water Conservation Fund, to remain available until expended.

OREGON AND CALIFORNIA GRANT LANDS

For expenses necessary for management, protection, and development of resources and for construction, operation, and maintenance of access roads, reforestation, and other improvements on the revested Oregon and California Railroad grant lands, on other Federal lands in the Oregon and California land-grant counties of Oregon, and on adjacent rights-of-way; and acquisition of lands or interests therein including existing connecting roads on or adjacent to such grant lands; $101,406,000, to remain available until expended: *Provided,* That 25 per centum of the aggregate of all receipts during the current fiscal year from the revested Oregon and California Railroad grant lands is hereby made a charge against the Oregon and California land-grant fund and shall be transferred to the General Fund in the Treasury in accordance with the second paragraph of subsection (b) of title II of the Act of August 28, 1937 (50 Stat. 876).

FOREST ECOSYSTEMS HEALTH AND RECOVERY (REVOLVING FUND, SPECIAL ACCOUNT)

In addition to the purposes authorized in Public Law 102–381, funds made available in the Forest Ecosystem Health and Recovery Fund can be used for the purpose of planning, preparing, and monitoring salvage timber sales and forest ecosystem health and recovery activities such as release from competing vegetation and density control treatments. Any receipts derived from treatments funded by this account shall be deposited into the Forest Ecosystem Health and Recovery Fund.

RANGE IMPROVEMENTS

For rehabilitation, protection, and acquisition of lands and interests therein, and improvement of Federal rangelands pursuant to section 401 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701), notwithstanding any other Act, sums equal to 50 per centum of all moneys received during the prior fiscal year under sections 3 and 15 of the Taylor Grazing Act (43 U.S.C. 315 et seq.) and the amount designated for range improvements from grazing fees and mineral leasing receipts from Bankhead-Jones lands transferred to the Department of the Interior pursuant to law, but not less than $9,113,000, to remain available until expended: *Provided,* That not to exceed $600,000 shall be available for administrative expenses.

SERVICE CHARGES, DEPOSITS, AND FORFEITURES

For administrative expenses and other costs related to processing application documents and other authorizations for use and disposal of public lands and resources, for costs of providing copies of official public land documents, for monitoring construction, operation, and termination of facilities in conjunction with use authorizations, and for rehabilitation of damaged property, such amounts as may be collected under Public Law 94–579, as amended, and Public Law 93–153, to remain available until expended: *Provided*, That notwithstanding any provision to the contrary of section 305(a) of Public Law 94–579 (43 U.S.C. 1735(a)), any moneys that have been or will be received pursuant to that section, whether as a result of forfeiture, compromise, or settlement, if not appropriate for refund pursuant to section 305(c) of that Act (43 U.S.C. 1735(c)), shall be available and may be expended under the authority of this Act by the Secretary to improve, protect, or rehabilitate any public lands administered through the Bureau of Land Management which have been damaged by the action of a resource developer, purchaser, permittee, or any unauthorized person, without regard to whether all moneys collected from each such action are used on the exact lands damaged which led to the action: *Provided further*, That any such moneys that are in excess of amounts needed to repair damage to the exact land for which funds were collected may be used to repair other damaged public lands.

MISCELLANEOUS TRUST FUNDS

In addition to amounts authorized to be expended under existing laws, there is hereby appropriated such amounts as may be contributed under section 307 of the Act of October 21, 1976 (43 U.S.C. 1701), and such amounts as may be advanced for administrative costs, surveys, appraisals, and costs of making conveyances of omitted lands under section 211(b) of that Act, to remain available until expended.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Land Management shall be available for purchase, erection, and dismantlement of temporary structures, and alteration and maintenance of necessary buildings and appurtenant facilities to which the United States has title; up to $100,000 for payments, at the discretion of the Secretary, for information or evidence concerning violations of laws administered by the Bureau; miscellaneous and emergency expenses of enforcement activities authorized or approved by the Secretary and to be accounted for solely on his certificate, not to exceed $10,000: *Provided*, That notwithstanding 44 U.S.C. 501, the Bureau may, under cooperative cost-sharing and partnership arrangements authorized by law, procure printing services from cooperators in connection with jointly-produced publications for which the cooperators share the cost of printing either in cash or in services, and the Bureau determines the cooperator is capable of meeting accepted quality standards.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For expenses necessary for scientific and economic studies, conservation, management, investigations, protection, and utilization of fishery and wildlife resources, except whales, seals, and sea lions, and for the performance of other authorized functions related to such resources; for the general administration of the United States Fish and Wildlife Service; for maintenance of the herd of long-horned cattle on the Wichita Mountains Wildlife Refuge; and not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by the Youth Conservation Corps as authorized by the Act of August 13, 1970, as amended, **[**$591,042,000**]** *$585,064,000*, to remain available until September 30, 1999, of which $11,612,000 shall remain available until expended for operation and maintenance of fishery mitigation facilities constructed by the Corps of Engineers under the Lower Snake River Compensation Plan, authorized by the Water Resources Development Act of 1976, to compensate for loss of fishery resources from water development projects on the Lower Snake River, and of which not less than $2,000,000 shall be provided to local governments in southern California for planning associated with the Natural Communities Conservation Planning (NCCP) program and shall remain available until expended**[**, and of which not to exceed $5,190,000 shall be used for implementing subsections (a), (b), (c), and (e) of section 4 of the Endangered Species Act of 1973, as amended**]***: Provided, That the proviso under this heading in Public Law 104–208 is amended by striking the words ''Education and'' and inserting in lieu thereof ''Conservation'', by striking the word ''direct'' and inserting in lieu thereof the word ''full'', and by inserting before the period '', to remain available until expended'': Provided further, That the Bureau of Reclamation transfers to the Fish and Wildlife Service for the Recovery Implementation Program for Endangered Fish Species in the Upper Colorado River Basin shall be exempt from any Fish and Wildlife Service overhead charge.*

CONSTRUCTION

For construction and acquisition of buildings and other facilities required in the conservation, management, investigation, protection, and utilization of fishery and wildlife resources, and the acquisition of lands and interests therein; **[**$40,256,000**]** *$43,053,000*, to remain available until expended.

NATURAL RESOURCE DAMAGE ASSESSMENT FUND

To conduct natural resource damage assessment activities by the Department of the Interior necessary to carry out the provisions of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (42 U.S.C. 9601, et seq.), Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, et seq.), the Oil Pollution Act of 1990 (Public Law 101–380), and Public Law 101–337; **[**$4,128,000**]** *$4,328,000*, to remain available until expended: *Provided*, That under this heading in Public Law 104–134, strike ''in fiscal year 1996 and thereafter'' in the proviso and insert ''heretofore and hereafter'', and before the phrase, ''or properties shall be utilized'' in such proviso, insert '', to remain available until expended,''*: Provided further, That the first proviso under this heading in Public Law 103–138 is amended by inserting after ''account'' the following: '', including transfers to Federal trustees and payments to non-Federal trustees,''.*

LAND ACQUISITION

For expenses necessary to carry out the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460*l*–4–11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the United States Fish and Wildlife Service, **[**$53,000,000**]** *$57,292,000*, to remain available until expended.

COOPERATIVE ENDANGERED SPECIES CONSERVATION FUND

For expenses necessary to carry out the provisions of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), as amended, $14,000,000, for grants to States, to be derived from the Cooperative Endangered Species Conservation Fund, and to remain available until expended.

NATIONAL WILDLIFE REFUGE FUND

For expenses necessary to implement the Act of October 17, 1978 (16 U.S.C. 715s), **[**$10,000,000**]** *$10,779,000*.

REWARDS AND OPERATIONS

For expenses necessary to carry out the provisions of the African Elephant Conservation Act (16 U.S.C. 4201–4203, 4211–4213, 4221–4225, 4241–4245, and 1538), $1,000,000, to remain available until expended.

NORTH AMERICAN WETLANDS CONSERVATION FUND

For expenses necessary to carry out the provisions of the North American Wetlands Conservation Act, Public Law 101–233, as amended, **[**$10,500,000**]** *$13,000,000*, to remain available until expended.

RHINOCEROS AND TIGER CONSERVATION FUND

For deposit to the Rhinoceros and Tiger Conservation Fund, $400,000, to remain available until expended, to carry out the Rhinoceros and Tiger Conservation Act of 1994 (Public Law 103–391).

WILDLIFE CONSERVATION AND APPRECIATION FUND

For deposit to the Wildlife Conservation and Appreciation Fund, $800,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS

Appropriations and funds available to the United States Fish and Wildlife Service shall be available for purchase of not to exceed 108 passenger motor vehicles, of which 92 are for replacement only (including 57 for police-type use); not to exceed $400,000 for payment, at the discretion of the Secretary, for information, rewards, or evidence concerning violations of laws administered by the Service, and miscellaneous and emergency expenses of enforcement activities, authorized or approved by the Secretary and to be accounted for solely on his certificate; repair of damage to public roads within and adjacent to reservation areas caused by operations of the Service; options for the purchase of land at not to exceed $1 for each option; facilities incident to such public recreational uses on conservation areas as are consistent with their primary purpose; and the maintenance and improvement of aquaria, buildings, and other facilities under the jurisdiction of the Service and to which the United States has title, and which are utilized pursuant to law in connection with management and investigation of fish and wildlife resources: *Provided*, That notwithstanding 44 U.S.C. 501, the Service may, under cooperative cost sharing and partnership arrangements authorized by law, procure printing services from cooperators in connection with jointly-produced publications for which the cooperators share at least one-half the cost of printing either in cash or services and the Service determines the cooperator is capable of meeting accepted quality standards: *Provided further*, That the Service may accept donated aircraft as replacements for existing aircraft: *Provided further*, That notwithstanding any other provision of law, the Secretary of the Interior may not spend any of the funds appropriated in this Act for the purchase of lands or interests in lands to be used in the establishment of any new unit of the National Wildlife Refuge System unless the purchase is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in the report accompanying this bill: *Provided further*, That the Secretary may sell land and interests in land, other than surface water rights, acquired in conformance with subsections 206(a) and 207(c) of Public Law 101–816, the receipts of which shall be deposited to the Lahontan Valley and Pyramid Lake Fish and

Wildlife Fund and used exclusively for the purposes of such subsections, without regard to the limitation on the distribution of benefits in subsection 206(f)(2) of such law.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For expenses necessary for the management, operation, and maintenance of areas and facilities administered by the National Park Service (including special road maintenance service to trucking permittees on a reimbursable basis), and for the general administration of the National Park Service, including not to exceed [$2,500,000] *$1,593,000* for the Volunteers-in-Parks program, and not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by the Youth Conservation Corps as authorized by 16 U.S.C. 1706, [$1,232,325,000] *$1,249,409,000,* of which $12,800,000 for research, planning and interagency coordination in support of land acquisition for Everglades restoration shall remain available until expended, and of which not to exceed $72,000,000, to remain available until expended, is to be derived from the special fee account established pursuant to title V, section 5201 of Public Law 100–203.

NATIONAL RECREATION AND PRESERVATION

For expenses necessary to carry out recreation programs, natural programs, cultural programs, heritage partnership programs, environmental compliance and review, international park affairs, statutory or contractual aid for other activities, and grant administration, not otherwise provided for, [$43,934,000, of which $4,500,000 is for grants to Heritage areas in accordance with titles I–VI and VIII–IX, division II of Public Law 104–333 and is] *$45,284,000* to remain available until September 30, 1999.

HISTORIC PRESERVATION FUND

For expenses necessary in carrying out the Historic Preservation Act of 1966, as amended (16 U.S.C. 470), and the Omnibus Parks and Public Lands Management Act of 1996 (Public Law 104–333), [$40,412,000] *$39,812,000,* to be derived from the Historic Preservation Fund, to remain available until September 30, 1999, *of which $3,200,000 pursuant to section 507 of Public Law 104–333 shall remain available until expended.*

CONSTRUCTION

For construction, improvements, repair or replacement of physical facilities, *including the modifications authorized by section 104 of the Everglades National Park Protection and Expansion Act of 1989,* [$148,391,000] *$167,894,000* to remain available until expended]*: Provided,* That $500,000 for the Rutherford B. Hayes Home and $600,000 for the Sotterly Plantation House shall be derived from the Historic Preservation Fund pursuant to 16 U.S.C. 470A]*: Provided, That $500,000 for the Darwin Mountain House in Buffalo, New York and $500,000 for the Penn Center, South Carolina, shall be derived from the Historic Preservation Fund pursuant to 16 U.S.C. 470a: Provided further, That $3,000,000 for the Hispanic Cultural Center, New Mexico, is subject to authorization: Provided further, That $1,000,000 for the Oklahoma City Bombing Memorial is subject to authorization: Provided further, That none of the funds provided in this Act may be used to relocate the Brooks River Lodge in Katmai National Park and Preserve from its current physical location.*

LAND AND WATER CONSERVATION FUND

(RESCISSION)

The contract authority provided for fiscal year 1998 by 16 U.S.C. 460l–10a is rescinded.

LAND ACQUISITION AND STATE ASSISTANCE

For expenses necessary to carry out the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l–4–11), including administrative expenses, and for acquisition of lands or waters, or interest therein, in accordance with statutory authority applicable to the National Park Service, [$129,000,000] *$125,690,000,* to be derived from the Land and Water Conservation Fund, to remain available until expended[, of which $1,000,000 is to administer the State assistance program]: *Provided,* That any funds made available for the purpose of acquisition of the Elwha and Glines dams shall be used solely for acquisition, and shall not be expended until the full purchase amount has been appropriated by the Congress[*: Provided further,* That of the funds provided herein, $8,500,000 is available for acquisition of the Sterling Forest]*: Provided further, That from the funds made available for land acquisition at Everglades National Park and Big Cypress National Preserve, the Secretary may provide for Federal assistance to the State of Florida for the acquisition of lands or waters, or interests therein, within the Everglades watershed (consisting of lands and waters within the boundaries of the South Florida Water Management District, Florida Bay and the Florida Keys) under terms and conditions deemed necessary by the Secretary, to improve and restore the hydrological function of the Everglades watershed: Provided further, That funds provided under this head to the State of Florida shall be subject to an agreement that such lands will be managed in perpetuity for the restoration of the Everglades.*

ADMINISTRATIVE PROVISIONS

Appropriations for the National Park Service shall be available for the purchase of not to exceed 396 passenger motor vehicles, of which 302 shall be for replacement only, including not to exceed 315 for police-type use, 13 buses, and 6 ambulances: *Provided,* That none of the funds appropriated to the National Park Service may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided further,* That none of the funds appropriated to the National Park Service may be used to implement an agreement for the redevelopment of the southern end of Ellis Island until such agreement has been submitted to the Congress and shall not be implemented prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full and comprehensive report on the development of the southern end of Ellis Island, including the facts and circumstances relied upon in support of the proposed project.

None of the funds in this Act may be spent by the National Park Service for activities taken in direct response to the United Nations Biodiversity Convention.

The National Park Service may distribute to operating units based on the safety record of each unit the costs of programs designed to improve workplace and employee safety, and to encourage employees receiving workers' compensation benefits pursuant to chapter 81 of title 5, United States Code, to return to appropriate positions for which they are medically able.

UNITED STATES GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For expenses necessary for the United States Geological Survey to perform surveys, investigations, and research covering topography, geology, hydrology, and the mineral and water resources of the United States, its Territories and possessions, and other areas as authorized by 43 U.S.C. 31, 1332, and 1340; classify lands as to their mineral and water resources; give engineering supervision to power permittees and Federal Energy Regulatory Commission licensees; administer the minerals exploration program (30 U.S.C. 641); and publish and disseminate data relative to the foregoing activities; and to conduct inquiries into the economic conditions affecting mining and materials processing industries (30 U.S.C. 3, 21a, and 1603; 50 U.S.C. 98g(1)) and related purposes as authorized by law and to publish and disseminate data; [$755,795,000] *$758,160,000* of which $66,231,000 shall be available only for cooperation with States or municipalities for water resources investigations; and of which $16,400,000 shall remain available until expended for conducting inquiries into the economic conditions affecting mining and materials processing industries*; and of which $2,000,000 shall remain available until expended for development of a mineral and geologic database*; and of which [$147,794,000] *$147,159,000* shall be available until September 30, 1999 for the biological research activity and the operation of the Cooperative Research Units: *Provided,* That none of these funds provided for the biological research activity shall be used to conduct new surveys on private property, unless specifically authorized in writing by the property owner: *Provided further,* That no part of this appropriation shall be used to pay more than one-half the cost of topographic mapping or water resources data collection and investigations carried on in cooperation with States and municipalities*: Provided further, That hereafter the United States Geological Survey may disperse to local entities Payment in Lieu of Taxes impact funding appropriated to the Fish and Wildlife Service pursuant to the Refuge Revenue Sharing Act that is associated with Federal real property being transferred to the United States Geological Survey from the United States Fish and Wildlife Service.*

ADMINISTRATIVE PROVISIONS

The amount appropriated for the United States Geological Survey shall be available for the purchase of not to exceed 53 passenger motor vehicles, of which 48 are for replacement only; reimbursement to the General Services Administration for security guard services; contracting for the furnishing of topographic maps and for the making of geophysical or other specialized surveys when it is administratively determined that such procedures are in the public interest; construction and maintenance of necessary buildings and appurtenant facilities; acquisition of lands for gauging stations and observation wells; expenses of the United States National Committee on Geology; and payment of compensation and expenses of persons on the rolls of the Survey duly appointed to represent the United States in the negotiation and administration of interstate compacts: *Provided,* That activities funded by appropriations herein made may be accomplished through the use of contracts, grants, or cooperative agreements as defined in 31 U.S.C. 6302, et seq.: *Provided further,* That the USGS may contract directly with individuals or indirectly with institutions or nonprofit organizations, without regard to section 41 U.S.C. 5, for the temporary or intermittent services of science students or recent graduates, who shall be considered employees for the purposes of chapter 81 of title 5, United States Code, relating to compensation for work injuries, and chapter 171 of title 28, United States Code, relating to tort claims, but shall not be considered to be Federal employees for any other purposes.

MINERALS MANAGEMENT SERVICE

ROYALTY AND OFFSHORE MINERALS MANAGEMENT

For expenses necessary for minerals leasing and environmental studies, regulation of

industry operations, and collection of royalties, as authorized by law; for enforcing laws and regulations applicable to oil, gas, and other minerals leases, permits, licenses and operating contracts; and for matching grants or cooperative agreements; including the purchase of not to exceed eight passenger motor vehicles for replacement only; [$139,621,000] *$135,722,000,* of which not less than [$70,874,000] *$66,175,000* shall be available for royalty management activities; and an amount not to exceed $65,000,000 [for activities within the Outer Continental Shelf (OCS) Lands Program,] to be credited to this appropriation and to remain available until expended, from additions to receipts resulting from increases to rates in effect on August 5, 1993, from rate increases to fee collections for OCS administrative activities performed by the Minerals Management Service over and above the rates in effect on September 30, 1993, and from additional fees for OCS administrative activities established after September 30, 1993: *Provided,* That [$1,500,000] *$3,000,000* for computer acquisitions shall remain available until September 30, 1999: *Provided further,* That funds appropriated under this Act shall be available for the payment of interest in accordance with 30 U.S.C. 1721(b) and (d): *Provided further,* That not to exceed $3,000 shall be available for reasonable expenses related to promoting volunteer beach and marine cleanup activities: *Provided further,* That notwithstanding any other provision of law, $15,000 under this head shall be available for refunds of overpayments in connection with certain Indian leases in which the Director of the Minerals Management Service concurred with the claimed refund due, to pay amounts owed to Indian allottees or Tribes, or to correct prior unrecoverable erroneous payments.

OIL SPILL RESEARCH

For necessary expenses to carry out title I, section 1016, title IV, sections 4202 and 4303, title VII, and title VIII, section 8201 of the Oil Pollution Act of 1990, $6,118,000, which shall be derived from the Oil Spill Liability Trust Fund, to remain available until expended.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

REGULATION AND TECHNOLOGY

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95–87, as amended, including the purchase of not to exceed 10 passenger motor vehicles, for replacement only; [$94,937,000] *$97,437,000,* and notwithstanding 31 U.S.C. 3302, an additional amount shall be credited to this account, to remain available until expended, from performance bond forfeitures in fiscal year 1998: *Provided,* That the Secretary of the Interior, pursuant to regulations, may utilize directly or through grants to States, moneys collected in fiscal year 1998 for civil penalties assessed under section 518 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1268), to reclaim lands adversely affected by coal mining practices after August 3, 1977, to remain available until expended: *Provided further,* That appropriations for the Office of Surface Mining Reclamation and Enforcement may provide for the travel and per diem expenses of State and tribal personnel attending Office of Surface Mining Reclamation and Enforcement sponsored training.

ABANDONED MINE RECLAMATION FUND

For necessary expenses to carry out title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95–87, as amended, including the purchase of not more than 10 passenger motor vehicles for replacement only, [$179,624,000] *$177,624,000,* to be derived from receipts of the Abandoned Mine Reclamation Fund and to remain available until expended; of which up to $5,000,000 shall be for supplemental grants to States for the reclamation of abandoned sites with acid mine rock drainage from coal mines through the Appalachian Clean Streams Initiative: *Provided,* That grants to minimum program States will be $1,500,000 per State in fiscal year 1998: *Provided further,* That of the funds herein provided up to $18,000,000 may be used for the emergency program authorized by section 410 of Public Law 95–87, as amended, of which no more than 25 per centum shall be used for emergency reclamation projects in any one State and funds for federally-administered emergency reclamation projects under this proviso shall not exceed $11,000,000: *Provided further,* That prior year unobligated funds appropriated for the emergency reclamation program shall not be subject to the 25 per centum limitation per State and may be used without fiscal year limitation for emergency projects: *Provided further,* That pursuant to Public Law 97–365, the Department of the Interior is authorized to use up to 20 per centum from the recovery of the delinquent debt owed to the United States Government to pay for contracts to collect these debts: *Provided further,* That funds made available to States under title IV of Public Law 95–87 may be used, at their discretion, for any required non-Federal share of the cost of projects funded by the Federal Government for the purpose of environmental restoration related to treatment or abatement of acid mine drainage from abandoned mines: *Provided further,* That such projects must be consistent with the purposes and priorities of the Surface Mining Control and Reclamation Act: *Provided further,* That the State of Maryland may set aside the greater of $1,000,000 or 10 percent of the total of the grants made available to the State under title IV of the Surface Mining Control and Reclamation Act of 1977, as amended (30 U.S.C. 1231 et seq.), if the amount set aside is deposited in an acid mine drainage abatement and treatment fund established under a State law, pursuant to which law the amount (together with all interest earned on the amount) is expended by the State to undertake acid mine drainage abatement and treatment projects, except that before any amounts greater than 10 percent of its title IV grants are deposited in an acid mine drainage abatement and treatment fund, the State of Maryland must first complete all Surface Mining Control and Reclamation Act priority one projects.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For operation of Indian programs by direct expenditure, contracts, cooperative agreements, compacts, and grants including expenses necessary to provide education and welfare services for Indians, either directly or in cooperation with States and other organizations, including payment of care, tuition, assistance, and other expenses of Indians in boarding homes, or institutions, or schools; grants and other assistance to needy Indians; maintenance of law and order; management, development, improvement, and protection of resources and appurtenant facilities under the jurisdiction of the Bureau, including payment of irrigation assessments and charges; acquisition of water rights; advances for Indian industrial and business enterprises; operation of Indian arts and crafts shops and museums; development of Indian arts and crafts, as authorized by law; for the general administration of the Bureau, including such expenses in field offices; maintaining of Indian reservation roads as defined in 23 U.S.C. 101; and construction, repair, and improvement of Indian housing, [$1,526,815,000] *$1,527,024,000,* to remain available until September 30, 1999 except as otherwise provided herein, of which not to exceed $93,825,000 shall be for welfare assistance payments and not to exceed $105,829,000 shall be for payments to tribes and tribal organizations for contract support costs associated with ongoing contracts or grants or compacts entered into with the Bureau prior to fiscal year 1998, as authorized by the Indian Self-Determination Act of 1975, as amended, and up to $5,000,000 shall be for the Indian Self-Determination Fund, which shall be available for the transitional cost of initial or expanded tribal contracts, grants, compacts, or cooperative agreements with the Bureau under such Act; and of which not to exceed $374,290,000 for school operations costs of Bureau-funded schools and other education programs shall become available on July 1, 1998, and shall remain available until September 30, 1999; and of which not to exceed [$59,775,000] *$59,479,000* shall remain available until expended for housing improvement, road maintenance, attorney fees, litigation support, self-governance grants, the Indian Self-Determination Fund, land records improvements and the Navajo-Hopi Settlement Program: *Provided,* That tribes and tribal contractors may use their tribal priority allocations for unmet indirect costs of ongoing contracts, grants or compact agreements and for unmet welfare assistance costs: *Provided further,* That funds made available to tribes and tribal organizations through contracts, compact agreements, or grants obligated during fiscal years 1998 and 1999, as authorized by the Indian Self-Determination Act of 1975, or grants authorized by the Indian Education Amendments of 1988 (25 U.S.C. 2001 and 2008A) shall remain available until expended by the contractor or grantee: *Provided further,* That to provide funding uniformity within a Self-Governance Compact, any funds provided in this Act with availability for more than two years may be reprogrammed to two year availability but shall remain available within the Compact until expended: *Provided further,* That notwithstanding any other provision of law, Indian tribal governments may, by appropriate changes in eligibility criteria or by other means, change eligibility for general assistance or change the amount of general assistance payments for individuals within the service area of such tribe who are otherwise deemed eligible for general assistance payments so long as such changes are applied in a consistent manner to individuals similarly situated: *Provided further,* That any savings realized by such changes shall be available for use in meeting other priorities of the tribes: *Provided further,* That any net increase in costs to the Federal Government which result solely from tribally increased payment levels for general assistance shall be met exclusively from funds available to the tribe from within its tribal priority allocation: *Provided further,* That any forestry funds allocated to a tribe which remain unobligated as of September 30, 1998, may be transferred during fiscal year 1999 to an Indian forest land assistance account established for the benefit of such tribe within the tribe's trust fund account: *Provided further,* That any such unobligated balances not so transferred shall expire on September 30, 1999: *Provided further,* That notwithstanding any other provision of law, no funds available to the Bureau, other than the amounts provided herein for assistance to public schools under 25 U.S.C. 452 et seq., shall be available to support the operation of any elementary or secondary school in the State of Alaska in fiscal year 1998: *Provided further,* That funds made available in this or any other Act for expenditure through September 30, 1999 for schools funded by the Bureau

shall be available only to the schools in the Bureau school system as of September 1, 1996: *Provided further*, That no funds available to the Bureau shall be used to support expanded grades for any school or dormitory beyond the grade structure in place or approved by the Secretary of the Interior at each school in the Bureau school system as of October 1, 1995: *Provided further*, That beginning in fiscal year 1998 and thereafter and notwithstanding 25 U.S.C. 2012(h)(1)(B), when the rates of basic compensation for teachers and counselors at Bureau-operated schools are established at the rates of basic compensation applicable to comparable positions in overseas schools under the Defense Department Overseas Teachers Pay and Personnel Practices Act, such rates shall become effective with the start of the next academic year following the issuance of the Department of Defense salary schedule and shall not be effected retroactively: *Provided further*, That the Cibecue Community School may use prior year school operations funds for the construction of a new high school facility which is in compliance with 25 U.S.C. 2005(a) provided that any additional construction costs for replacement of such facilities begun with prior year funds shall be completed exclusively with non-Federal funds*: Provided further, That tribes may use Tribal Priority Allocations funds for the replacement and repair of school facilities which are in compliance with 25 U.S.C. 2005(a) provided that any construction costs for subsequent replacement of such facilities is completed exclusively with non-Federal funds*.

CONSTRUCTION

For construction, major repair, and improvement of irrigation and power systems, buildings, utilities, and other facilities, including architectural and engineering services by contract; acquisition of lands, and interests in lands; and preparation of lands for farming, and for construction of the Navajo Indian Irrigation Project pursuant to Public Law 87–483, [$110,751,000] *$125,051,000*, to remain available until expended: *Provided*, That such amounts as may be available for the construction of the Navajo Indian Irrigation Project may be transferred to the Bureau of Reclamation: *Provided further*, That not to exceed 6 per centum of contract authority available to the Bureau of Indian Affairs from the Federal Highway Trust Fund may be used to cover the road program management costs of the Bureau: *Provided further*, That any funds provided for the Safety of Dams program pursuant to 25 U.S.C. 13 shall be made available on a non-reimbursable basis: *Provided further*, That for fiscal year 1998, in implementing new construction or facilities improvement and repair project grants in excess of $100,000 that are provided to tribally controlled grant schools under Public Law 100–297, as amended, the Secretary of the Interior shall use the Administrative and Audit Requirements and Cost Principles for Assistance Programs contained in 43 CFR part 12 as the regulatory requirements: *Provided further*, That such grants shall not be subject to section 12.61 of 43 CFR; the Secretary and the grantee shall negotiate and determine a schedule of payments for the work to be performed: *Provided further*, That in considering applications, the Secretary shall consider whether the Indian tribe or tribal organization would be deficient in assuring that the construction projects conform to applicable building standards and codes and Federal, tribal, or State health and safety standards as required by 25 U.S.C. 2005(a), with respect to organizational and financial management capabilities: *Provided further*, That if the Secretary declines an application, the Secretary shall follow the requirements contained in 25 U.S.C. 2505(f): *Provided further*, That any disputes between the Secretary and any grantee concerning a grant shall be subject to the disputes provision in 25 U.S.C. 2508(e).

INDIAN LAND AND WATER CLAIM SETTLEMENTS AND MISCELLANEOUS PAYMENTS TO INDIANS

For miscellaneous payments to Indian tribes and individuals and for necessary administrative expenses, [$41,352,000] *$43,352,000*, to remain available until expended; of which [$40,500,000] *$42,000,000* shall be available for implementation of enacted Indian land and water claim settlements pursuant to Public Laws 101–618, 102–374, and 102–575, and for implementation of other enacted water rights settlements, including not to exceed $8,000,000, which shall be for the Federal share of the Catawba Indian Tribe of South Carolina Claims Settlement, as authorized by section 5(a) of Public Law 103–116; and of which [$852,000] *$1,352,000* shall be available pursuant to Public Laws 99–264, *100–383, 103–402*, and 100–580: *Provided*, That the Secretary is directed to sell land and interests in land, other than surface water rights, acquired in conformance with section 2 of the Truckee River Water Quality Settlement Agreement, the receipts of which shall be deposited to the Lahontan Valley and Pyramid Lake Fish and Wildlife Fund, and be available for the purposes of section 2 of such Agreement, without regard to the limitation on the distribution of benefits in the second sentence of paragraph 206(f)(2) of Public Law 101–618.

INDIAN GUARANTEED LOAN PROGRAM ACCOUNT

For the cost of guaranteed loans, $4,500,000, as authorized by the Indian Financing Act of 1974, as amended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $34,615,000.

In addition, for administrative expenses to carry out the guaranteed loan programs, $500,000.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Indian Affairs (except the revolving fund for loans, the Indian loan guarantee and insurance fund, the Technical Assistance of Indian Enterprises account, the Indian Direct Loan Program account, and the Indian Guaranteed Loan Program account) shall be available for expenses of exhibits, and purchase of not to exceed 229 passenger motor vehicles, of which not to exceed 187 shall be for replacement only.

Notwithstanding any other provision of law, no funds available to the Bureau of Indian Affairs for central office operations or pooled overhead general administration shall be available for tribal contracts, grants, compacts, or cooperative agreements with the Bureau of Indian Affairs under the provisions of the Indian Self-Determination Act or the Tribal Self-Governance Act of 1994 (Public Law 103–413).

DEPARTMENTAL OFFICES

INSULAR AFFAIRS

ASSISTANCE TO TERRITORIES

For expenses necessary for assistance to territories under the jurisdiction of the Department of the Interior, [$68,214,000] *$67,214,000*, of which (1) [$64,365,000] *$63,365,000* shall be available until expended for technical assistance, including maintenance assistance, disaster assistance, insular management controls, and brown tree snake control and research; grants to the judiciary in American Samoa for compensation and expenses, as authorized by law (48 U.S.C. 1661(c)); grants to the Government of American Samoa, in addition to current local revenues, for construction and support of governmental functions; grants to the Government of the Virgin Islands as authorized by law; grants to the Government of Guam, as authorized by law; and grants to the Government of the Northern Mariana Islands as authorized by law (Public Law 94–241; 90 Stat. 272); and (2) $3,849,000 shall be available for salaries and expenses of the Office of Insular Affairs: *Provided*, That all financial transactions of the territorial and local governments herein provided for, including such transactions of all agencies or instrumentalities established or utilized by such governments, may be audited by the General Accounting Office, at its discretion, in accordance with chapter 35 of title 31, United States Code: *Provided further*, That Northern Mariana Islands Covenant grant funding shall be provided according to those terms of the Agreement of the Special Representatives on Future United States Financial Assistance for the Northern Mariana Islands approved by Public Law 99–396, or any subsequent legislation related to Commonwealth of the Northern Mariana Islands grant funding: *Provided further*, That of the amounts provided for technical assistance, sufficient funding shall be made available for a grant to the Close Up Foundation: *Provided further*, That the funds for the program of operations and maintenance improvement are appropriated to institutionalize routine operations and maintenance improvement of capital infrastructure in American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia through assessments of long-range operations maintenance needs, improved capability of local operations and maintenance institutions and agencies (including management and vocational education training), and project-specific maintenance (with territorial participation and cost sharing to be determined by the Secretary based on the individual territory's commitment to timely maintenance of its capital assets): *Provided further*, That any appropriation for disaster assistance under this head in this Act or previous appropriations Acts may be used as non-Federal matching funds for the purpose of hazard mitigation grants provided pursuant to section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c).

COMPACT OF FREE ASSOCIATION

For economic assistance and necessary expenses for the Federated States of Micronesia and the Republic of the Marshall Islands as provided for in sections 122, 221, 223, 232, and 233 of the Compact of Free Association, and for economic assistance and necessary expenses for the Republic of Palau as provided for in sections 122, 221, 223, 232, and 233 of the Compact of Free Association, [$20,445,000] *$20,545,000*, to remain available until expended, as authorized by Public Law 99–239 and Public Law 99–658.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses for management of the Department of the Interior, $58,286,000, of which not to exceed $8,500 may be for official reception and representation expenses, and of which up to $1,200,000 shall be available for workers compensation payments and unemployment compensation payments associated with the orderly closure of the United States Bureau of Mines.

OFFICE OF THE SOLICITOR

SALARIES AND EXPENSES

For necessary expenses of the Office of the Solicitor, $35,443,000.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General, [$24,439,000] *$24,500,000.*

NATIONAL INDIAN GAMING COMMISSION

SALARIES AND EXPENSES

[For necessary expenses of the National Indian Gaming Commission, pursuant to Public Law 100–497, $1,000,000.]

For necessary expenses of the National Indian Gaming Commission, pursuant to Public Law 100–497, $1,000,000, to remain available until expended.

OFFICE OF SPECIAL TRUSTEE FOR AMERICAN INDIANS

FEDERAL TRUST PROGRAMS

For operation of trust programs for Indians by direct expenditure, contracts, cooperative agreements, compacts, and grants, [$32,126,000] *$35,689,000,* to remain available until expended [for trust funds management:] *Provided,* That funds for trust management improvements may be transferred to the Bureau of Indian Affairs: *Provided further,* That funds made available to tribes and tribal organizations through contracts or grants obligated during fiscal year 1998, as authorized by the Indian Self-Determination Act of 1975 (25 U.S.C. 450 et seq.), shall remain available until expended by the contractor or grantee: *Provided further,* That notwithstanding any other provision of law, the statute of limitations shall not commence to run on any claim, including any claim in litigation pending on the date of this Act, concerning losses to or mismanagement of trust funds, until the affected tribe or individual Indian has been furnished with an accounting of such funds from which the beneficiary can determine whether there has been a loss.

ADMINISTRATIVE PROVISIONS

There is hereby authorized for acquisition from available resources within the Working Capital Fund, 15 aircraft, 10 of which shall be for replacement and which may be obtained by donation, purchase or through available excess surplus property: *Provided,* That notwithstanding any other provision of law, existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft: *Provided further,* That no programs funded with appropriated funds in the ''Departmental Management'', ''Office of the Solicitor'', and ''Office of Inspector General'' may be augmented through the Working Capital Fund or the Consolidated Working Fund.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

SEC. 101. Appropriations made in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: *Provided,* That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted: *Provided further,* That all funds used pursuant to this section are hereby designated by Congress to be ''emergency requirements'' pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985, and must be replenished by a supplemental appropriation which must be requested as promptly as possible.

SEC. 102. The Secretary may authorize the expenditure or transfer of any no year appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under the jurisdiction of the Department of the Interior; for the emergency rehabilitation of burned-over lands under its jurisdiction; for emergency actions related to potential or actual earthquakes, floods, volcanoes, storms, or other unavoidable causes; for contingency planning subsequent to actual oilspills; response and natural resource damage assessment activities related to actual oilspills; for the prevention, suppression, and control of actual or potential grasshopper and Mormon cricket outbreaks on lands under the jurisdiction of the Secretary, pursuant to the authority in section 1773(b) of Public Law 99–198 (99 Stat. 1658); for emergency reclamation projects under section 410 of Public Law 95–87; and shall transfer, from any no year funds available to the Office of Surface Mining Reclamation and Enforcement, such funds as may be necessary to permit assumption of regulatory authority in the event a primacy State is not carrying out the regulatory provisions of the Surface Mining Act: *Provided,* That appropriations made in this title for fire suppression purposes shall be available for the payment of obligations incurred during the preceding fiscal year, and for reimbursement to other Federal agencies for destruction of vehicles, aircraft, or other equipment in connection with their use for fire suppression purposes, such reimbursement to be credited to appropriations currently available at the time of receipt thereof: *Provided further,* That for emergency rehabilitation and wildfire suppression activities, no funds shall be made available under this authority until funds appropriated to ''Wildland Fire Management'' shall have been exhausted: *Provided further,* That all funds used pursuant to this section are hereby designated by Congress to be ''emergency requirements'' pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985, and must be replenished by a supplemental appropriation which must be requested as promptly as possible: *Provided further,* That such replenishment funds shall be used to reimburse, on a pro rata basis, accounts from which emergency funds were transferred.

SEC. 103. Appropriations made in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by sections 1535 and 1536 of title 31, United States Code: *Provided,* That reimbursements for costs and supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

SEC. 104. Appropriations made to the Department of the Interior in this title shall be available for services as authorized by 5 U.S.C. 3109, when authorized by the Secretary, in total amount not to exceed $500,000; hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchase of reprints; payment for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library membership in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members.

SEC. 105. Appropriations available to the Department of the Interior for salaries and expenses shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902 and D.C. Code 4–204).

SEC. 106. Appropriations made in this title shall be available for obligation in connection with contracts issued for services or rentals for periods not in excess of twelve months beginning at any time during the fiscal year.

[SEC. 107. No final rule or regulation of any agency of the Federal Government pertaining to the recognition, management, or validity of a right-of-way pursuant to Revised Statute 2477 (43 U.S.C. 932) shall take effect unless expressly authorized by an Act of Congress subsequent to the date of enactment of this Act.]

SEC. 108. No funds provided in this title may be expended by the Department of the Interior for the conduct of offshore leasing and related activities placed under restriction in the President's moratorium statement of June 26, 1990, in the areas of Northern, Central, and Southern California; the North Atlantic; Washington and Oregon; and the Eastern Gulf of Mexico south of 26 degrees north latitude and east of 86 degrees west longitude.

SEC. 109. No funds provided in this title may be expended by the Department of the Interior for the conduct of [leasing, or the approval or permitting of any drilling or other exploration activity,] *offshore oil and natural gas preleasing, leasing, and related activities* on lands within the North Aleutian Basin planning area.

SEC. 110. No funds provided in this title may be expended by the Department of the Interior to conduct offshore oil and natural gas preleasing, leasing and related activities in the Eastern Gulf of Mexico planning area for any lands located outside Sale 181, as identified in the final Outer Continental Shelf 5-Year Oil and Gas Leasing Program, 1997–2002.

SEC. 111. No funds provided in this title may be expended by the Department of the Interior to conduct oil and natural gas preleasing, leasing and related activities in the Mid-Atlantic and South Atlantic planning areas.

[SEC. 112. Advance payments made under this title to Indian tribes, tribal organizations, and tribal consortia pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450, et seq.) may be invested by the Indian tribe, tribal organization, or consortium before such funds are expended for the purposes of the grant, compact, or annual funding agreement so long as such funds are—

[(a) invested by the Indian tribe, tribal organization, or consortium only in obligations of the United States or in obligations or securities that are guaranteed or insured by the United States, or

[(b) deposited only into accounts that are insured by an agency or instrumentality of the United States.]

SEC. 112. Advance payments made under this title to Indian tribes, tribal organizations, and tribal consortia pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450, et seq.) may be invested by the Indian tribe, tribal organization, or consortium before such funds are expended for the purposes of the grant, compact, or annual funding agreement so long as such funds are—

(a) invested by the Indian tribe, tribal organization, or consortium only in obligations of the United States, or in obligations or securities that are guaranteed or insured by the United States, or mutual (or other) funds registered with the Securities and Exchange Commission and which only invest in obligations of the United States or securities that are guaranteed or insured by the United States, or

(b) deposited only into accounts that are insured by an agency or instrumentality of the United States, or are fully collateralized to ensure protection of the Funds, even in the event of a bank failure.

[SEC. 113. (a) Employees of Helium Operations, Bureau of Land Management, entitled to severance pay under 5 U.S.C. 5595, may apply for, and the Secretary of the Interior may pay the total amount of the severance pay to the employee in a lump sum. Employees paid severance pay in a lump sum and subsequently reemployed by the Federal government shall be subject to the repayment provisions of 5 U.S.C. 5595(i)(2) and (3), except that any repayment shall be made to the Helium Fund.

[(b) Helium Operations employees who elect to continue health benefits after separation shall be liable for not more than the required employee contribution under 5 U.S.C. 8905a(d)(1)(A). The Helium Fund shall pay for 18 months the remaining portion of required contributions.

[(c) Benefits under this section shall be available to Helium Operations employees who are or will be involuntarily separated before October 1, 2002 because of the cessation of helium production and sales and other related activities.]

SEC. 113. (a) Employees of Helium Operations, Bureau of Land Management, entitled to severance pay under 5 U.S.C. 5595, may apply for, and the Secretary of the Interior may pay, the total amount of the severance pay to the employee in a lump sum. Employees paid severance pay in a lump sum and subsequently reemployed by the Federal Government shall be subject to the repayment provisions of 5 U.S.C. 5595(i) (2) and (3), except that any repayment shall be made to the Helium Fund.

(b) Helium Operations employees who elect to continue health benefits after separation shall be liable for not more than the required employee contribution under 5 U.S.C. 8905a(d)(1)(A). The Helium Fund shall pay for 18 months the remaining portion of required contributions.

(c) The Secretary of the Interior may provide for training to assist Helium Operations employees in the transition to other Federal or private sector jobs during the facility shut-down and disposition process and for up to 12 months following separation from Federal employment, including retraining and relocation incentives on the same terms and conditions as authorized for employees of the Department of Defense in section 348 of the National Defense Authorization Act for Fiscal Year 1995.

(d) For purposes of the annual leave restoration provisions of 5 U.S.C. 6304(d)(1)(B), the cessation of helium production and sales, and other related Helium Program activities shall be deemed to create an exigency of public business under, and annual leave that is lost during leave years 1997 through 2001 because of, 5 U.S.C. 6304 (regardless of whether such leave was scheduled in advance) shall be restored to the employee and shall be credited and available in accordance with 5 U.S.C. 6304(d)(2). Annual leave so restored and remaining unused upon the transfer of a Helium Program employee to a position of the executive branch outside of the Helium Program shall be liquidated by payment to the employee of a lump-sum from the Helium Fund for such leave.

(e) Benefits under this section shall be paid from the Helium Fund in accordance with section 4(c)(4) of the Helium Privatization Act of 1996. Funds may be made available to Helium Program employees who are or will be separated before October 1, 2002 because of the cessation of helium production and sales and other related activities. Retraining benefits, including retraining and relocation incentives, may be paid for retraining commencing on or before September 30, 2002.

[SEC. 114. None of the funds in this or previous appropriations Acts may be used to establish a new regional office in the United States Fish and Wildlife Service without the advance approval of the House and Senate Committees on Appropriations.]

SEC. 115. (a) CONVEYANCE REQUIREMENT.—Within 90 days after the date of enactment of this Act, the Secretary of the Interior shall convey to the State of West Virginia without reimbursement, all right, title, and interest of the United States in and to the property described in subsection (b), for sole use by the Wildlife Resources Section of the West Virginia Division of Natural Resources, as part of the State of West Virginia fish culture program.

(b) PROPERTY DESCRIBED.—The property referred to in subsection (a) is the property known as the Bowden National Fish Hatchery, located on old United States route 33, Randolph County, West Virginia, consisting of 44 acres (more or less), and all improvements and related personal property under the control of the Secretary that is located on that property, including buildings, structures, equipment, and all easements, leases, and water rights relating to that property.

(c) USE AND REVERSIONARY INTEREST.—The property conveyed to the State of West Virginia pursuant to this section shall be used and operated solely by the Wildlife Resources Section of the West Virginia Division of Natural Resources for the purposes of fishery resources management and fisheries related activities, and if it is used for any other purposes or by any other party other than the use authorized under subsection (a), all right, title, and interest in and to all property conveyed under this section shall revert to the United States. The State of West Virginia shall ensure that the property reverting to the United States is in substantially the same or better condition as at the time of transfer.

SEC. 116. Section 115 of Public Law 103–332 is amended by inserting after the word ''title'' the following: ''or provided from other Federal agencies through reimbursable or other agreements pursuant to the Economy Act''.

SEC. 117. The third proviso under the heading ''Compact of Free Association'' of Public Law 100–446 is amended by striking ''$2,000,000'' and inserting ''$2,500,000'' and by adding at the end of the proviso the following: ''and commencing on October 1, 1998 and every year thereafter, this dollar amount shall be changed to reflect any fluctuation occurring during the previous twelve (12) months in the Consumer Price Index, as determined by the Secretary of Labor.''

SEC. 118. (a) No funds available in this Act or any other Act for tribal priority allocations (hereinafter in this section ''TPA'') in excess of the funds expended for TPA in fiscal year 1997 (adjusted for fixed costs and internal transfers pursuant to other law) may be allocated or expended by the Bureau of Indian Affairs (hereinafter in this section ''BIA'') until sixty days after the BIA has submitted to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives the report required under subsection (b).

(b) The BIA is directed to develop a formula through which TPA funds will be allocated on the basis of need, taking into account each tribe's tribal business revenues from all business ventures, including gaming. The BIA shall submit to the Congress its recommendations for need-based distribution formulas for TPA funds prior to January 1, 1998. Such recommendations shall include several proposed formulas, which shall provide alternative means of measuring the wealth and needs of tribes.

(c) Notwithstanding any other provision of law, the BIA is hereby authorized to collect such financial and supporting information as is necessary from each tribe receiving or seeking to receive TPA funding to determine such tribe's tribal business revenue from business ventures, including gaming, for use in determining such tribe's wealth and needs for the purposes of this section. The BIA shall obtain such information on the previous calendar or fiscal year's business revenues no later than April 15th of each year. For purposes of preparing its recommendations under subsection (b), the BIA shall require each tribe that received TPA funds in fiscal year 1997 to submit such information by November 1, 1997.

(d) At the request of a tribe, the BIA shall provide such technical assistance as is necessary to foster the tribe's compliance with subsection (c). Any tribe which does not comply with subsection (c) in any given year will be ineligible to receive TPA funds for the following fiscal year, as such tribe's relative need cannot be determined.

(e) For the purposes of this section, the term ''tribal business revenue'' means income, however derived, from any venture (regardless of the nature or purpose of the activity) owned, held, or operated, in whole or in part, by any entity (whether corporate, partnership, sole proprietorship, trust, or cooperative in nature) on behalf of the collective members of any tribe that has received or seeks to receive TPA, and any income from license fees and royalties collected by any such tribe. Payments by corporations to shareholders who are shareholders based on stock ownership, not tribal membership, will not be considered tribal business revenue under this section unless the corporation is operated by a tribe.

(f) Notwithstanding any provision of this Act or any other Act hereinafter enacted, no funds may be allocated or expended by any agency of the Federal Government for TPA after October 1, 1998 except in accordance with a needs-based funding formula that takes into account all tribal business revenues, including gaming, of each tribe receiving TPA funds.

SEC. 119. Section 116 of the Omnibus Appropriations Act for Fiscal Year 1997 (Public Law 104–208; 110 Stat. 3009–201) is amended—

(1) by striking ''Miners Hospital Grant'' each place it appears and inserting in lieu thereof ''Miners Hospital Grants'';

(2) by striking ''(February 20, 1929, 45 Stat. 1252)'' each place it appears and inserting in lieu thereof ''(July 16, 1894, 28 Stat. 110 and February 20, 1929, 45 Stat. 1252)''; and

(3) by striking ''(July 26, 1894, 28 Stat. 110)'' each place it appears and inserting in lieu thereof ''(July 16, 1894, 28 Stat. 110)''.

TRIBAL PRIORITY ALLOCATION LIMITATION

SEC. 120. The receipt by an Indian Tribe of tribal priority allocations funding from the Bureau of Indian Affairs ''Operation of Indian Programs'' account under this Act shall—

(1) waive any claim of immunity by that Indian tribe;

(2) subject that Indian tribe to the jurisdiction of the courts of the United States, and grant the consent of the United States to the maintenance of suit and jurisdiction of such courts irrespective of the issue of tribal immunity; and

(3) grant United States district courts original jurisdiction of all civil actions brought by or against any Indian tribe or band with a governing body duly recognized by the Secretary of the Interior, wherein the matter in controversy arises under the Constitution, laws, or treaties of the United States.

SEC. 121. KANTISHNA MINING CLAIMS.—Notwithstanding any other provision of law, on October 1, 1998, there is hereby vested in the United States all right, title, and interest in and to, and the right of immediate possession of, all patented mining claims and valid unpatented mining claims (including any unpatented claim whose validity is in dispute, so long as such validity is later established in a settlement or judgement pursuant to this section) in the Kantishna Mining District within Denali National Park and Preserve whose owners consent in writing to this action within said 120 day period: Provided, That in the event a bankruptcy trustee is an owner in interest in a mining claim in the Kantishna Mining District, that consent will be deemed timely for purposes of this section if the trustee applies within said 120 day period to the bankruptcy court for authority to sell the mining claim and to consent to the taking of such claim, and that in such event title

shall vest in the United States 10 days after entry of an unstayed order or judgement approving the trustee's application: Provided further, That the United States shall pay just compensation to the owners of any property taken pursuant to this section, determined as of the date of taking: Provided further, That payment shall be in the amount of a negotiated settlement of the value of such property or the valuation of such property awarded by judgment and shall be made solely from the permanent judgment appropriation established pursuant to section 1304 of title 31, United States Code, and shall include accrued interest on the amount of the agreed settlement value or the final judgment from the date of taking to the date of payment, calculated in accordance with section 258e–1 of title 40, United States Code, except that interest shall not be allowed on such amounts as shall have been paid into the court registry: Provided further, That the United States or the property owner may initiate proceedings at any time after said 120 day period seeking a determination of just compensation in the District Court for the District of Alaska pursuant to sections 1358 and 1403 of title 28, United States Code: Provided further, That the United States shall deposit in the registry of the court the estimated just compensation, or at least seventy-five percent thereof, in accordance with the procedures generally described in section 258a of title 40, United States Code not otherwise inconsistent with this section: Provided further, That in establishing any estimate (other than an estimate based on an agency-certified appraisal made prior to the date of enactment of this Act) the Secretary of the Interior shall permit the property owner to present evidence of the value of the property, including potential mineral value, and shall consider such evidence and permit the property owner to have a reasonable and sufficient opportunity to comment on such estimate: Provided further, That the estimated just compensation or part thereof deposited in the court registry shall be paid to the property owner upon request: Provided further, That any payment from the court registry to the property owner shall be deducted from any negotiated settlement or award by judgement: Provided further, That the United States may not request the court to withhold any payment from the court registry or pursue any claim for environmental remediation with respect to such property until 30 days after a negotiated settlement or award by judgement with respect to such property has been reached and payment has been made: Provided further, That the Secretary shall not allow any unauthorized use of property acquired pursuant to this section after the date of taking, and the Secretary shall permit the orderly termination of all operation on the lands and the removal of equipment, facilities, and personal property.

SEC. 122. Section 1034 of Public Law 104–333 (110 Stat. 4093, 4240) is amended by striking ''at any time within 12 months of enactment of this Act'' and inserting in lieu thereof ''on or before October 1, 1998''.

SEC. 123. (a) KODIAK LAND VALUATION.—Notwithstanding the Refuge Revenue Sharing Act (16 U.S.C. 715s) or any regulations implementing such Act, the fair market value for the initial computation of the payment to Kodiak Island Borough pursuant to such Act shall be based on the purchase price of the parcels acquired from Akhiok-Kaguyak, Incorporated, Koniag, Incorporated, and the Old Harbor Native Corporation for addition to the Kodiak National Wildlife Refuge.

(b) The fair market value of the parcels described in subsection (a) shall be reappraised under the normal schedule for appraisals adopted by the Alaska Region of the United States Fish and Wildlife Service under the Refuge Revenue Sharing Act (16 U.S.C. 715s). Any such reappraisals shall be made in accordance with such Act and any other applicable law or regulation.

(c) The fair market value computation required under subsection (a) shall be effective as of the date of the acquisition of the parcels described in such subsection.

SEC. 124. (a) ANDROSCOGGIN RIVER VALLEY HERITAGE AREA ACT—SHORT TITLE.—This Act may be cited as the ''Androscoggin River Valley Heritage Area Act''.

(b) PURPOSE.—The purpose of this Act is to establish a locally oriented commission to assist the city of Berlin, New Hampshire, in identifying and studying the Androscoggin River Valley's historical and cultural assets.

(c) ESTABLISHMENT OF COMMISSION.—There is established the Androscoggin River Valley Heritage Commission (referred to in this Act as the ''Commission''), which shall consist of 10 members appointed not later than 3 months after the date of enactment of this Act, as follows:

(1) 1 member appointed by the Governor of New Hampshire, who shall serve as Chairperson.

(2) 1 member appointed by the Speaker of the House of Representatives of the State of New Hampshire.

(3) 1 member appointed by the President of the Senate of the State of New Hampshire.

(4) 2 members appointed by the Secretary of the Interior from among individuals recommended by State and local cultural or historic preservation organizations.

(5) 1 member, appointed by the Secretary of the Interior, who has experience in the area of historical projects.

(6) 4 members appointed by the mayor of the city of Berlin, New Hampshire.

(d) VOTING.—The Commission shall act and advise by affirmative vote of a majority of its members.

(e) COMPENSATION.—

(1) IN GENERAL.—A member of the Commission shall receive no pay on account of the member's service on the Commission.

(2) TRAVEL EXPENSES.—A member of the Commission, while away from the member's home or regular place of business in the performance of services for the Commission, shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5, United States Code.

(f) EXEMPTION FROM CHARTER RENEWAL REQUIREMENTS.—Section 14(b) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(g) TERMINATION.—The Commission shall terminate on submission of a report under section 4(b).

(h) SUPPORT.—

(1) STAFF AND TECHNICAL SERVICES.—The Director of the National Park Service may provide such staff support and technical services as are necessary to carry out the functions of the Commission.

(2) COMPLETION OF STUDY.—The Secretary of the Interior may provide the Commission such technical and other assistance as is necessary to complete the study described in subsection (j).

(i) OPEN MEETINGS.—All meetings of the Commission shall be open to the public.

(j) STUDY.—

(1) IN GENERAL.—Not later than 1 year after the completion of appointment of the members of the Commission, the Commission shall complete a comprehensive study of the Androscoggin River Valley's history and culture in New Hampshire, which shall—

(A) include a catalog of all available historically and culturally significant sites, buildings, and areas in the region;

(B) examine the feasibility of any Federal or State historic recognition in the region;

(C) include a set of options for the city of Berlin, New Hampshire, to pursue with respect to heritage-based development, including a list of available Federal, State, and private programs that would further any such efforts; and

(D) account for the impacts of any heritage-based development on State, municipal, and private property.

(2) REPORT.—The Commission shall provide Congress, the Secretary of the Interior, and the State of New Hampshire with a report based on the study described in paragraph 1.

(k) NO REGULATORY AUTHORITY.—Nothing in this Act provides the Commission with any regulatory authority.

(l) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out the functions of the Commission, there is authorized to be appropriated $50,000.

TITLE II—RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST AND RANGELAND RESEARCH

For necessary expenses of forest and rangeland research as authorized by law, [$187,644,000] *$188,644,000,* to remain available until expended.

STATE AND PRIVATE FORESTRY

For necessary expenses of cooperating with and providing technical and financial assistance to States, Territories, possessions, and others, and for forest health management, cooperative forestry, and education and land conservation activities, [$157,922,000] *$162,668,000,* to remain available until expended, as authorized by law*: Provided, That of funds available under this heading for Pacific Northwest Assistance in this or prior appropriations Acts, $800,000 shall be provided to the World Forestry Center for purposes of continuing scientific research and other authorized efforts regarding the land exchange efforts in the Umpqua River Basin region: Provided further, That activities conducted pursuant to funds provided herein for the Alaska Spruce Bark Beetle task force shall be exempt from the requirements of the Federal Advisory Committee Act.*

NATIONAL FOREST SYSTEM

For necessary expenses of the Forest Service, not otherwise provided for, for management, protection, improvement, and utilization of the National Forest System, for forest planning, inventory, and monitoring, and for administrative expenses associated with the management of funds provided under the heads ''Forest and Rangeland Research,'' ''State and Private Forestry,'' ''National Forest System,'' ''Wildland Fire Management,'' ''Reconstruction and Construction,'' and ''Land Acquisition,'' [$1,364,480,000] *$1,346,215,000,* to remain available until expended, which shall include 50 per centum of all monies received during prior fiscal years as fees collected under the Land and Water Conservation Fund Act of 1965, as amended, in accordance with section 4 of the Act (16 U.S.C. 460*l*–6a(i)): *Provided,* That up to $10,000,000 of the funds provided herein for road maintenance shall be available for the planned obliteration of roads which are no longer needed*: Provided further, That funds may be used to construct or reconstruct facilities of the Forest Service: Provided further, That no more than $250,000 shall be used on any single project, exclusive of planning and design costs: Provided further, That the Forest Service shall report annually to Congress the amount obligated for each project, and the total dollars obligated during the year.*

WILDLAND FIRE MANAGEMENT

For necessary expenses for forest fire presuppression activities on National Forest System lands, for emergency fire suppression on or adjacent to such lands or other lands under fire protection agreement, and for emergency rehabilitation of burned over National Forest System lands, [$591,715,000] *$582,715,000* to remain available until expended: *Provided,* That such funds are available for repayment of advances from other

appropriations accounts previously transferred for such purposes.

RECONSTRUCTION AND CONSTRUCTION

For necessary expenses of the Forest Service, not otherwise provided for, [$160,122,000 (reduced by $5,600,000)] *$160,269,000*, to remain available until expended for construction, reconstruction and acquisition of buildings and other facilities, and for construction, reconstruction and repair of forest roads and trails by the Forest Service as authorized by 16 U.S.C. 532–538 and 23 U.S.C. 101 and 205[: *Provided*, That not to exceed $50,000,000, (reduced to $25,000,000), to remain available until expended, may be obligated for the construction of forest roads by timber purchasers.]

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l–4–11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the Forest Service, [$45,000,000] *$49,176,000*, to be derived from the Land and Water Conservation Fund, to remain available until expended.

ACQUISITION OF LANDS FOR NATIONAL FORESTS SPECIAL ACTS

For acquisition of lands within the exterior boundaries of the Cache, Uinta, and Wasatch National Forests, Utah; the Toiyabe National Forest, Nevada; and the Angeles, San Bernardino, Sequoia, and Cleveland National Forests, California, as authorized by law, $1,069,000, to be derived from forest receipts.

ACQUISITION OF LANDS TO COMPLETE LAND EXCHANGES

For acquisition of lands, such sums, to be derived from funds deposited by State, county, or municipal governments, public school districts, or other public school authorities pursuant to the Act of December 4, 1967, as amended (16 U.S.C. 484a), to remain available until expended.

RANGE BETTERMENT FUND

For necessary expenses of range rehabilitation, protection, and improvement, 50 per centum of all moneys received during the prior fiscal year, as fees for grazing domestic livestock on lands in National Forests in the sixteen Western States, pursuant to section 401(b)(1) of Public Law 94–579, as amended, to remain available until expended, of which not to exceed 6 per centum shall be available for administrative expenses associated with on-the-ground range rehabilitation, protection, and improvements.

GIFTS, DONATIONS AND BEQUESTS FOR FOREST AND RANGELAND RESEARCH

For expenses authorized by 16 U.S.C. 1643(b), $92,000, to remain available until expended, to be derived from the fund established pursuant to the above Act.

MIDEWIN NATIONAL TALLGRASS PRAIRIE RESTORATION FUND

All funds collected for admission, occupancy, and use of the Midewin National Tallgrass Prairie, and the salvage value proceeds from sale of any facilities and improvements pursuant to sections 2915(d) and (e) of Public Law 104–106, are hereby appropriated and made available until expended for the necessary expenses of restoring and administering the Midewin National Tallgrass Prairie in accordance with section 2915(f) of the Act.

[COOPERATIVE WORK, FOREST SERVICE

[For restoring the balances borrowed for previous years firefighting, $128,000,000, to remain available until expended: *Provided*, That the appropriation shall be merged with and made a part of the designated fund authorized by Public Law 71–319, as amended.]

ADMINISTRATIVE PROVISIONS, FOREST SERVICE

Appropriations to the Forest Service for the current fiscal year shall be available for: (1) purchase of not to exceed 159 passenger motor vehicles of which 22 will be used primarily for law enforcement purposes and of which 156 shall be for replacement; acquisition of 25 passenger motor vehicles from excess sources, and hire of such vehicles; operation and maintenance of aircraft, the purchase of not to exceed two for replacement only, and acquisition of 20 aircraft from excess sources notwithstanding other provisions of law, existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft; (2) services pursuant to 7 U.S.C. 2225, and not to exceed $100,000 for employment under 5 U.S.C. 3109; (3) purchase, erection, and alteration of buildings and other public improvements (7 U.S.C. 2250); (4) acquisition of land, waters, and interests therein, pursuant to 7 U.S.C. 428a; (5) for expenses pursuant to the Volunteers in the National Forest Act of 1972 (16 U.S.C. 558a, 558d, and 558a note); (6) the cost of uniforms as authorized by 5 U.S.C. 5901–5902; and (7) for debt collection contracts in accordance with 31 U.S.C. 3718(c).

None of the funds made available under this Act shall be obligated or expended to change the boundaries of any region, to abolish any region, to move or close any regional office for research, State and private forestry, or National Forest System administration of the Forest Service, Department of Agriculture *other than the relocation of the regional office for Region 10 to Ketchikan and other office relocations and closures in Alaska as specified in the Committee report accompanying this bill*, without the consent of the House and Senate Committees on Appropriations.

Any appropriations or funds available to the Forest Service may be advanced to the Wildland Fire Management appropriation and may be used for forest firefighting and the emergency rehabilitation of burned-over or damaged lands or waters under its jurisdiction.

Funds appropriated to the Forest Service shall be available for assistance to or through the Agency for International Development and the Foreign Agricultural Service in connection with forest and rangeland research, technical information, and assistance in foreign countries, and shall be available to support forestry and related natural resource activities outside the United States and its territories and possessions, including technical assistance, education and training, and cooperation with United States and international organizations.

None of the funds made available to the Forest Service under this Act shall be subject to transfer under the provisions of section 702(b) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 2257) or 7 U.S.C. 147b unless the proposed transfer is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in the report accompanying this bill.

None of the funds available to the Forest Service may be reprogrammed without the advance approval of the House and Senate Committees on Appropriations in accordance with the procedures contained in the report accompanying this bill.

No funds appropriated to the Forest Service shall be transferred to the Working Capital Fund of the Department of Agriculture without the approval of the Chief of the Forest Service.

Notwithstanding any other provision of the law, any appropriations or funds available to the Forest Service may be used to disseminate program information to private and public individuals and organizations through the use of nonmonetary items of nominal value and to provide nonmonetary awards of nominal value and to incur necessary expenses for the nonmonetary recognition of private individuals and organizations that make contributions to Forest Service programs.

Notwithstanding any other provision of law, money collected, in advance or otherwise, by the Forest Service under authority of section 101 of Public Law 93–153 (30 U.S.C. 185(1)) as reimbursement of administrative and other costs incurred in processing pipeline right-of-way or permit applications and for costs incurred in monitoring the construction, operation, maintenance, and termination of any pipeline and related facilities, may be used to reimburse the applicable appropriation to which such costs were originally charged.

Funds available to the Forest Service shall be available to conduct a program of not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by the Youth Conservation Corps as authorized by the Act of August 13, 1970, as amended by Public Law 93–408.

None of the funds available in this Act shall be used for timber sale preparation using clearcutting in hardwood stands in excess of 25 percent of the fiscal year 1989 harvested volume in the Wayne National Forest, Ohio: *Provided*, That this limitation shall not apply to hardwood stands damaged by natural disaster: *Provided further*, That landscape architects shall be used to maintain a visually pleasing forest.

Any money collected from the States for fire suppression assistance rendered by the Forest Service on non-Federal lands not in the vicinity of National Forest System lands shall be used to reimburse the applicable appropriation and shall remain available until expended as the Secretary may direct in conducting activities authorized by 16 U.S.C. 2101 note, 2101–2110, 1606, and 2111.

Of the funds available to the Forest Service, $1,500 is available to the Chief of the Forest Service for official reception and representation expenses.

Notwithstanding any other provision of law, the Forest Service is authorized to employ or otherwise contract with persons at regular rates of pay, as determined by the Service, to perform work occasioned by emergencies such as fires, storms, floods, earthquakes or any other unavoidable cause without regard to Sundays, Federal holidays, and the regular workweek.

To the greatest extent possible, and in accordance with the Final Amendment to the Shawnee National Forest Plan, none of the funds available in this Act shall be used for preparation of timber sales using clearcutting or other forms of even aged management in hardwood stands in the Shawnee National Forest, Illinois.

Pursuant to sections 405(b) and 410(b) of Public Law 101–593, of the funds available to the Forest Service, up to [$2,000,000] *$2,500,000* may be advanced in a lump sum as Federal financial assistance to the National Forest Foundation, without regard to when the Foundation incurs expenses, for administrative expenses or projects on or benefitting National Forest System lands or related to Forest Service programs: *Provided*, That of the Federal funds made available to the Foundation, no more than [$500,000] *$1,000,000* shall be available for administrative expenses: *Provided further*, That the Foundation shall obtain, by the end of the period of Federal financial assistance, private contributions to match on at least one-

for-one basis funds made available by the Forest Service: *Provided further,* That the Foundation may transfer Federal funds to a recipient of Federal financial assistance for a project at the same rate that the recipient has obtained the non-Federal matching funds: *Provided further,* That hereafter, the National Forest Foundation may hold Federal funds made available but not immediately disbursed and may use any interest or other investment income earned (before, on, or after the date of enactment of this Act) on Federal funds to carry out the purposes of Public Law 101–593: *Provided further,* That such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

Pursuant to section 2(b)(2) of Public Law 98–244, up to $2,000,000 of the funds available to the Forest Service shall be available for matching funds, as authorized by 16 U.S.C. 3701–3709, and may be advanced in a lump sum as Federal financial assistance, without regard to when expenses are incurred, for projects on or benefitting National Forest System lands or related to Forest Service programs: *Provided,* That the Foundation shall obtain, by the end of the period of Federal financial assistance, private contributions to match on at least one-for-one basis funds advanced by the Forest Service: *Provided further,* That the Foundation may transfer Federal funds to a recipient of Federal financial assistance for a project at the same rate that the recipient has obtained the non-Federal matching funds.

Funds appropriated to the Forest Service shall be available for interactions with and providing technical assistance to rural communities for sustainable rural development purposes.

Notwithstanding any other provision of law, 80 percent of the funds appropriated to the Forest Service in the ''National Forest System'' and ''Reconstruction and Construction'' accounts and planned to be allocated to activities under the ''Jobs in the Woods'' program for projects on National Forest land in the State of Washington may be granted directly to the Washington State Department of Fish and Wildlife for accomplishment of planned projects. Twenty percent of said funds shall be retained by the Forest Service for planning and administering projects. Project selection and prioritization shall be accomplished by the Forest Service with such consultation with the State of Washington as the Forest Service deems appropriate.

Funds appropriated to the Forest Service shall be available for payments to counties within the Columbia River Gorge National Scenic Area, pursuant to sections 14(c)(1) and (2), and section 16(a)(2) of Public Law 99–663.

Any funds available to the Forest Service may be used for retrofitting the Commanding Officer's Building (S–2), to accommodate the relocation of the Forest Supervisor's Office for the San Bernardino National Forest: *Provided,* That funds for the move must come from funds otherwise available to Region 5: *Provided further,* That any funds to be provided for such purposes shall only be available upon approval of the House and Senate Committees on Appropriations.

The Secretary of Agriculture is authorized to enter into grants, contracts, and cooperative agreements as appropriate with the Pinchot Institute for Conservation, as well as with public and other private agencies, organizations, institutions, and individuals, to provide for the development, administration, maintenance, or restoration of land, facilities, or Forest Service programs, at the Grey Towers National Historic Landmark: *Provided,* That, subject to such terms and conditions as the Secretary of Agriculture may prescribe, any such public or private agency, organization, institution, or individual may solicit, accept, and administer private gifts of money and real or personal property for the benefit of, or in connection with, the activities and services at the Grey Towers National Historic Landmark: *Provided further,* That such gifts may be accepted notwithstanding the fact that a donor conducts business with the Department of Agriculture in any capacity.

Funds appropriated to the Forest Service shall be available, as determined by the Secretary, for payments to Del Norte County, California, pursuant to sections 13(e) and 14 of the Smith River National Recreation Area Act (Public Law 101–612).

For purposes of the Southeast Alaska Economic Disaster Fund as set forth in section 101(c) of Public Law 104–134, the direct grants provided in subsection (c) shall be considered direct payments for purposes of all applicable law except that these direct grants may not be used for lobbying activities.

No employee of the Department of Agriculture may be detailed or assigned from an agency or office funded by this Act to any other agency or office of the Department for more than 30 days unless the individual's employing agency or office is fully reimbursed by the receiving agency or office for the salary and expenses of the employee for the period of assignment.

DEPARTMENT OF ENERGY

CLEAN COAL TECHNOLOGY

(RESCISSION)

Of the funds made available under this heading for obligation in fiscal year 1997 or prior years, $101,000,000 are rescinded: *Provided,* That funds made available in previous appropriations Acts shall be available for any ongoing project regardless of the separate request for proposal under which the project was selected.

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

For necessary expenses in carrying out fossil energy research and development activities, under the authority of the Department of Energy Organization Act (Public Law 95–91), including the acquisition of interest, including defeasible and equitable interests in any real property or any facility or for plant or facility acquisition or expansion, and for conducting inquiries, technological investigations and research concerning the extraction, processing, use, and disposal of mineral substances without objectionable social and environmental costs (30 U.S.C. 3, 1602, and 1603), performed under the minerals and materials science programs at the Albany Research Center in Oregon, [$313,153,000] *$363,969,000,* to remain available until expended: *Provided,* That no part of the sum herein made available shall be used for the field testing of nuclear explosives in the recovery of oil and gas.

ALTERNATIVE FUELS PRODUCTION

(INCLUDING TRANSFER OF FUNDS)

Monies received as investment income on the principal amount in the Great Plains Project Trust at the Norwest Bank of North Dakota, in such sums as are earned as of October 1, 1997, shall be deposited in this account and immediately transferred to the General Fund of the Treasury. Monies received as revenue sharing from operation of the Great Plains Gasification Plant shall be immediately transferred to the General Fund of the Treasury.

NAVAL PETROLEUM AND OIL SHALE RESERVES

For necessary expenses in carrying out naval petroleum and oil shale reserve activities, [$115,000,000] *$107,000,000,* and such sums as are necessary to operate Naval Petroleum Reserve Numbered 1 between May 16, 1998 and September 30, 1998, to remain available until expended: *Provided,* That notwithstanding any other provision of law, revenues received from use and operation of Naval Petroleum Reserve Numbered 1 in excess of $163,000,000 shall be used to offset the costs of operating Naval Petroleum Reserve Numbered 1 between May 16, 1998 and September 30, 1998: *Provided further,* That revenues retained pursuant to the first proviso under this head in Public Law 102–381 (106 Stat. 1404) shall be immediately transferred to the General Fund of the Treasury: *Provided further,* That the requirements of 10 U.S.C. 7430(b)(2)(B) shall not apply to fiscal year 1998.

ENERGY CONSERVATION

For necessary expenses in carrying out energy conservation activities, [$644,766,000] *$627,357,000,* to remain available until expended, including, notwithstanding any other provision of law, the excess amount for fiscal year 1998 determined under the provisions of section 3003(d) of Public Law 99–509 (15 U.S.C. 4502): *Provided,* That [$153,845,000] *$160,100,000* shall be for use in energy conservation programs as defined in section 3008(3) of Public Law 99–509 (15 U.S.C. 4507) and shall not be available until excess amounts are determined under the provisions of section 3003(d) of Public Law 99–509 (15 U.S.C. 4502): *Provided further,* That notwithstanding section 3003(d)(2) of Public Law 99–509 such sums shall be allocated to the eligible programs as follows: [$123,845,000] *$129,000,000* for weatherization assistance grants and [$30,000,000] *$31,100,000* for State energy conservation grants.

ECONOMIC REGULATION

For necessary expenses in carrying out the activities of the Office of Hearings and Appeals, $2,725,000, to remain available until expended.

STRATEGIC PETROLEUM RESERVE

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for Strategic Petroleum Reserve facility development and operations and program management activities pursuant to the Energy Policy and Conservation Act of 1975, as amended (42 U.S.C. 6201 et seq.), [$209,000,000] *$207,500,000,* to remain available until expended, of which [$209,000,000] *$207,500,000* shall be repaid from the ''SPR Operating Fund'' from amounts made available from the sale of oil from the Reserve: *Provided,* That notwithstanding section 161 of the Energy Policy and Conservation Act, the Secretary shall draw down and sell in fiscal year 1998 [$209,000,000] *$207,500,000* worth of oil from the Strategic Petroleum Reserve: *Provided further,* That the proceeds from the sale shall be deposited into the ''SPR Operating Fund'', and shall, upon receipt, be transferred to the Strategic Petroleum Reserve account for operations of the Strategic Petroleum Reserve.

SPR PETROLEUM ACCOUNT

Notwithstanding 42 U.S.C. 6240(d) the United States share of crude oil in Naval Petroleum Reserve Numbered 1 (Elk Hills) may be sold or otherwise disposed of to other than the Strategic Petroleum Reserve: *Provided,* That outlays in fiscal year 1998 resulting from the use of funds in this account shall not exceed $5,000,000.

ENERGY INFORMATION ADMINISTRATION

For necessary expenses in carrying out the activities of the Energy Information Administration, [$66,800,000] *$62,800,000,* to remain available until expended.

ADMINISTRATIVE PROVISIONS, DEPARTMENT OF ENERGY

Appropriations under this Act for the current fiscal year shall be available for hire of

passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase, repair, and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services.

From appropriations under this Act, transfers of sums may be made to other agencies of the Government for the performance of work for which the appropriation is made.

None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriations Act.

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private or foreign: *Provided*, That revenues and other moneys received by or for the account of the Department of Energy or otherwise generated by sale of products in connection with projects of the Department appropriated under this Act may be retained by the Secretary of Energy, to be available until expended, and used only for plant construction, operation, costs, and payments to cost-sharing entities as provided in appropriate cost-sharing contracts or agreements: *Provided further*, That the remainder of revenues after the making of such payments shall be covered into the Treasury as miscellaneous receipts: *Provided further*, That any contract, agreement, or provision thereof entered into by the Secretary pursuant to this authority shall not be executed prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full comprehensive report on such project, including the facts and circumstances relied upon in support of the proposed project.

No funds provided in this Act may be expended by the Department of Energy to prepare, issue, or process procurement documents for programs or projects for which appropriations have not been made.

In addition to other authorities set forth in this Act, the Secretary may accept fees and contributions from public and private sources, to be deposited in a contributed funds account, and prosecute projects using such fees and contributions in cooperation with other Federal, State or private agencies or concerns.

The Secretary is authorized to accept funds from other Federal agencies in return for assisting agencies in achieving energy efficiency in Federal facilities and operations by the use of privately financed, energy saving performance contracts and other private financing mechanisms. The funds may be provided after agencies begin to realize energy cost savings; may be retained by the Secretary until expended; and may be used only for the purpose of assisting Federal agencies in achieving greater efficiency, water conservation, and use of renewable energy by means of privately financed mechanisms, including energy savings performance contracts. Any such privately financed contracts shall meet the provisions of the Energy Policy Act of 1992, Public Law [102–496] *102–486* (42 U.S.C. 8287).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

INDIAN HEALTH SERVICE

INDIAN HEALTH SERVICES

For expenses necessary to carry out the Act of August 5, 1954 (68 Stat. 674), the Indian Self-Determination Act, the Indian Health Care Improvement Act, and titles II and III of the Public Health Service Act with respect to the Indian Health Service, [$1,829,008,000] *$1,958,235,000*, together with payments received during the fiscal year pursuant to 42 U.S.C. 238(b) for services furnished by the Indian Health Service: *Provided*, That funds made available to tribes and tribal organizations through contracts, grant agreements, or any other agreements or compacts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (25 U.S.C. 450), shall be deemed to be obligated at the time of the grant or contract award and thereafter shall remain available to the tribe or tribal organization without fiscal year limitation: *Provided further*, That $12,000,000 shall remain available until expended, for the Indian Catastrophic Health Emergency Fund: *Provided further*, That [$359,348,000] *$362,375,000* for contract medical care shall remain available for obligation until September 30, 1999: *Provided further*, That of the funds provided, not less than $11,889,000 shall be used to carry out the loan repayment program under section 108 of the Indian Health Care Improvement Act: *Provided further*, That funds provided in this Act may be used for one-year contracts and grants which are to be performed in two fiscal years, so long as the total obligation is recorded in the year for which the funds are appropriated: *Provided further*, That the amounts collected by the Secretary of Health and Human Services under the authority of title IV of the Indian Health Care Improvement Act shall remain available until expended for the purpose of achieving compliance with the applicable conditions and requirements of titles XVIII and XIX of the Social Security Act (exclusive of planning, design, or construction of new facilities): *Provided further*, That of the funds provided, $7,500,000 shall remain available until expended, for the Indian Self-Determination Fund, which shall be available for the transitional costs of initial or expanded tribal contracts, compacts, grants or cooperative agreements with the Indian Health Service under the provisions of the Indian Self-Determination Act: *Provided further*, That funding contained herein, and in any earlier appropriations Acts for scholarship programs under the Indian Health Care Improvement Act (25 U.S.C. 1613) shall remain available for obligation until September 30, 1999: *Provided further*, That amounts received by tribes and tribal organizations under title IV of the Indian Health Care Improvement Act shall be reported and accounted for and available to the receiving tribes and tribal organizations until expended.

INDIAN HEALTH FACILITIES

For construction, repair, maintenance, improvement, and equipment of health and related auxiliary facilities, including quarters for personnel; preparation of plans, specifications, and drawings; acquisition of sites, purchase and erection of modular buildings, and purchases of trailers; and for provision of domestic and community sanitation facilities for Indians, as authorized by section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), the Indian Self-Determination Act, and the Indian Health Care Improvement Act[, and for expenses necessary to carry out such Acts and titles II and III of the Public Health Service Act with respect to environmental health and facilities support activities of the Indian Health Service, $257,310,000] *$168,501,000*, to remain available until expended: *Provided*, That notwithstanding any other provision of law, funds appropriated for the planning, design, construction or renovation of health facilities for the benefit of an Indian tribe or tribes may be used to purchase land for sites to construct, improve, or enlarge health or related facilities.

ADMINISTRATIVE PROVISIONS, INDIAN HEALTH SERVICE

Appropriations in this Act to the Indian Health Service shall be available for services as authorized by 5 U.S.C. 3109 but at rates not to exceed the per diem rate equivalent to the maximum rate payable for senior-level positions under 5 U.S.C. 5376; hire of passenger motor vehicles and aircraft; purchase of medical equipment; purchase of reprints; purchase, renovation and erection of modular buildings and renovation of existing facilities; payments for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and for uniforms or allowances therefore as authorized by 5 U.S.C. 5901–5902; and for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities: *Provided*, That in accordance with the provisions of the Indian Health Care Improvement Act, non-Indian patients may be extended health care at all tribally administered or Indian Health Service facilities, subject to charges, and the proceeds along with funds recovered under the Federal Medical Care Recovery Act (42 U.S.C. 2651–2653) shall be credited to the account of the facility providing the service and shall be available without fiscal year limitation: *Provided further*, That notwithstanding any other law or regulation, funds transferred from the Department of Housing and Urban Development to the Indian Health Service shall be administered under Public Law 86–121 (the Indian Sanitation Facilities Act) and Public Law 93–638, as amended: *Provided further*, That funds appropriated to the Indian Health Service in this Act, except those used for administrative and program direction purposes, shall not be subject to limitations directed at curtailing Federal travel and transportation: *Provided further*, That notwithstanding any other provision of law, funds previously or herein made available to a tribe or tribal organization through a contract, grant, or agreement authorized by title I or title III of the Indian Self-Determination and Education Assistance Act of 1975 (25 U.S.C. 450), may be deobligated and reobligated to a self-determination contract under title I, or a self-governance agreement under title III of such Act and thereafter shall remain available to the tribe or tribal organization without fiscal year limitation: *Provided further*, That none of the funds made available to the Indian Health Service in this Act shall be used to implement the final rule published in the Federal Register on September 16, 1987, by the Department of Health and Human Services, relating to the eligibility for the health care services of the Indian Health Service until the Indian Health Service has submitted a budget request reflecting the increased costs associated with the proposed final rule, and such request has been included in an appropriations Act and enacted into law: *Provided further*, That funds made available in this Act are to be apportioned to the Indian Health Service as appropriated in this Act, and accounted for in the appropriation structure set forth in this Act[: *Provided further*, That funds received from any source, including tribal contractors and compactors for previously transferred functions which tribal contractors and compactors no longer wish to retain, for services, goods, or training and technical assistance, shall be retained by the Indian Health Service and shall remain available until expended by the Indian Health Service:] *Provided further, That with respect to functions transferred by the Indian Health Service to tribes or tribal organizations, the Indian Health Service is authorized to provide goods and services to those*

entities, on a reimbursable basis, including payment in advance with subsequent adjustment, and the reimbursements received therefrom, along with the funds received from those entities pursuant to the Indian Self-Determination Act, may be credited to the same or subsequent appropriation account which provided the funding, said amounts to remain available until expended: *Provided further*, That reimbursements for training, technical assistance, or services provided by the Indian Health Service will contain total costs, including direct, administrative, and overhead associated with the provision of goods, services, or technical assistance: *Provided further*, That the appropriation structure for the Indian Health Service may not be altered without advance approval of the House and Senate Committees on Appropriations.

OTHER RELATED AGENCIES

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

SALARIES AND EXPENSES

For necessary expenses of the Office of Navajo and Hopi Indian Relocation as authorized by Public Law 93–531, [$18,345,000] *$15,000,000*, to remain available until expended: *Provided*, That funds provided in this or any other appropriations Act are to be used to relocate eligible individuals and groups including evictees from District 6, Hopi-partitioned lands residents, those in significantly substandard housing, and all others certified as eligible and not included in the preceding categories: *Provided further*, That none of the funds contained in this or any other Act may be used by the Office of Navajo and Hopi Indian Relocation to evict any single Navajo or Navajo family who, as of November 30, 1985, was physically domiciled on the lands partitioned to the Hopi Tribe unless a new or replacement home is provided for such household: *Provided further*, That no relocatee will be provided with more than one new or replacement home: *Provided further*, That the Office shall relocate any certified eligible relocatees who have selected and received an approved homesite on the Navajo reservation or selected a replacement residence off the Navajo reservation or on the land acquired pursuant to 25 U.S.C. 640d–10.

INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

PAYMENT TO THE INSTITUTE

For payment to the Institute of American Indian and Alaska Native Culture and Arts Development, as authorized by title XV of Public Law 99–498, as amended (20 U.S.C. 56, part A), [$3,000,000] *$5,500,000*.

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

For necessary expenses of the Smithsonian Institution, as authorized by law, including research in the fields of art, science, and history; development, preservation, and documentation of the National Collections; presentation of public exhibits and performances; collection, preparation, dissemination, and exchange of information and publications; conduct of education, training, and museum assistance programs; maintenance, alteration, operation, lease (for terms not to exceed thirty years), and protection of buildings, facilities, and approaches; not to exceed $100,000 for services as authorized by 5 U.S.C. 3109; up to 5 replacement passenger vehicles; purchase, rental, repair, and cleaning of uniforms for employees; [$334,557,000] *$333,708,000*, of which not to exceed $32,718,000 for the instrumentation program, collections acquisition, Museum Support Center equipment and move, exhibition reinstallation, the National Museum of the American Indian, the repatriation of skeletal remains program, research equipment, information management, and Latino programming shall remain available until expended, and including such funds as may be necessary to support American overseas research centers and a total of $125,000 for the Council of American Overseas Research Centers: *Provided*, That funds appropriated herein are available for advance payments to independent contractors performing research services or participating in official Smithsonian presentations.

CONSTRUCTION AND IMPROVEMENTS, NATIONAL ZOOLOGICAL PARK

For necessary expenses of planning, construction, remodeling, and equipping of buildings and facilities at the National Zoological Park, by contract or otherwise, $3,850,000, to remain available until expended.

REPAIR AND RESTORATION OF BUILDINGS

For necessary expenses of repair and restoration of buildings owned or occupied by the Smithsonian Institution, by contract or otherwise, as authorized by section 2 of the Act of August 22, 1949 (63 Stat. 623), including not to exceed $10,000 for services as authorized by 5 U.S.C. 3109, [$50,000,000] *$32,000,000*, to remain available until expended: *Provided*, That contracts awarded for environmental systems, protection systems, and exterior repair or restoration of buildings of the Smithsonian Institution may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

CONSTRUCTION

For necessary expenses for construction, $33,000,000, to remain available until expended: Provided, That notwithstanding any other provision of law, a single procurement for the construction of the National Museum of the American Indian may be issued which includes the full scope of the project: Provided further, That the solicitation and the contract shall contain the clause ''availability of funds'' found at 48 CFR 52.232.18.

NATIONAL GALLERY OF ART

SALARIES AND EXPENSES

For the upkeep and operations of the National Gallery of Art, the protection and care of the works of art therein, and administrative expenses incident thereto, as authorized by the Act of March 24, 1937 (50 Stat. 51), as amended by the public resolution of April 13, 1939 (Public Resolution 9, Seventy-sixth Congress), including services as authorized by 5 U.S.C. 3109; payment in advance when authorized by the treasurer of the Gallery for membership in library, museum, and art associations or societies whose publications or services are available to members only, or to members at a price lower than to the general public; purchase, repair, and cleaning of uniforms for guards, and uniforms, or allowances therefor, for other employees as authorized by law (5 U.S.C. 5901–5902); purchase or rental of devices and services for protecting buildings and contents thereof, and maintenance, alteration, improvement, and repair of buildings, approaches, and grounds; and purchase of services for restoration and repair of works of art for the National Gallery of Art by contracts made, without advertising, with individuals, firms, or organizations at such rates or prices and under such terms and conditions as the Gallery may deem proper, $55,837,000, of which not to exceed $3,026,000 for the special exhibition program shall remain available until expended.

REPAIR, RESTORATION AND RENOVATION OF BUILDINGS

For necessary expenses of repair, restoration and renovation of buildings, grounds and facilities owned or occupied by the National Gallery of Art, by contract or otherwise, as authorized, [$6,442,000] *$5,942,000*, to remain available until expended: *Provided*, That contracts awarded for environmental systems, protection systems, and exterior repair or renovation of buildings of the National Gallery of Art may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

OPERATIONS AND MAINTENANCE

For necessary expenses for the operation, maintenance and security of the John F. Kennedy Center for the Performing Arts, $11,375,000.

CONSTRUCTION

For necessary expenses for capital repair and rehabilitation of the existing features of the building and site of the John F. Kennedy Center for the Performing Arts, $9,000,000, to remain available until expended.

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

SALARIES AND EXPENSES

[For necessary expenses of the Woodrow Wilson International Center for Scholars, $1,000,000.]

For expenses necessary in carrying out the provisions of the Woodrow Wilson Memorial Act of 1968 (82 Stat. 1356) including hire of passenger vehicles and services as authorized by 5 U.S.C. 3109, $5,840,000.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $83,300,000 shall be available to the National Endowment for the Arts for the support of projects and productions in the arts through assistance to organizations and individuals pursuant to section 5(c) of the Act, and for administering the functions of the Act, to remain available until expended.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $16,760,000, to remain available until expended, to the National Endowment for the Arts: Provided, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of section 10(a)(2), subsections 11(a)(2)(A) and 11(a)(3)(A) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

NATIONAL ENDOWMENT FOR THE HUMANITIES

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, [$96,100,000] *$96,800,000*, shall be available to the National Endowment for the Humanities for support of activities in the humanities, pursuant to section 7(c) of the Act, and for administering the functions of the Act, to remain available until expended.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $13,900,000, to remain available until expended, of which $8,000,000 shall be available to the National Endowment for the Humanities for the purposes of section 7(h):

Provided, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of subsections 11(a)(2)(B) and 11(a)(3)(B) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

INSTITUTE OF MUSEUM AND LIBRARY SERVICES

OFFICE OF MUSEUM SERVICES

GRANTS AND ADMINISTRATION

For carrying out subtitle C of the Museum and Library Services Act of 1996, [$23,390,000] *$22,290,000*, to remain available until expended.

ADMINISTRATIVE PROVISIONS

None of the funds appropriated to the National Foundation on the Arts and the Humanities may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided*, That none of the funds appropriated to the National Foundation on the Arts and the Humanities may be used for official reception and representation expenses.

COMMISSION OF FINE ARTS

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing a Commission of Fine Arts (40 U.S.C. 104), $907,000.

NATIONAL CAPITAL ARTS AND CULTURAL AFFAIRS

For necessary expenses as authorized by Public Law 99–190 (20 U.S.C. 956(a)), as amended, [$6,000,000] *$7,000,000*.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

SALARIES AND EXPENSES

For necessary expenses of the Advisory Council on Historic Preservation (Public Law 89–665, as amended), [$2,700,000] *$2,745,000*: *Provided*, That none of these funds shall be available for the compensation of Executive Level V or higher positions.

NATIONAL CAPITAL PLANNING COMMISSION

SALARIES AND EXPENSES

For necessary expenses, as authorized by the National Capital Planning Act of 1952 (40 U.S.C. 71–71i), including services as authorized by 5 U.S.C. 3109, [$5,700,000] *$5,740,000: Provided*, That all appointed members will be compensated at a rate not to exceed the rate for Executive Schedule Level IV: *Provided further*, That beginning in fiscal year 1998 and thereafter, the Commission is authorized to charge fees to cover the full costs of Geographic Information System products and services supplied by the Commission, and such fees shall be credited to this account as an offsetting collection, to remain available until expended.

UNITED STATES HOLOCAUST MEMORIAL COUNCIL

HOLOCAUST MEMORIAL COUNCIL

For expenses of the Holocaust Memorial Council, as authorized by Public Law 96–388 (36 U.S.C. 1401), as amended, $31,707,000 of which $1,575,000 for the Museum's repair and rehabilitation program and $1,264,000 for the Museum's exhibitions program shall remain available until expended.

TITLE III—GENERAL PROVISIONS

SEC. 301. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law.

SEC. 302. No part of any appropriation under this Act shall be available to the Secretary of the Interior or the Secretary of Agriculture for the leasing of oil and natural gas by noncompetitive bidding on publicly owned lands within the boundaries of the Shawnee National Forest, Illinois: *Provided*, That nothing herein is intended to inhibit or otherwise affect the sale, lease, or right to access to minerals owned by private individuals.

SEC. 303. No part of any appropriation contained in this Act shall be available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which congressional action is not complete.

SEC. 304. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 305. None of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency except as otherwise provided by law.

SEC. 306. No assessments may be levied against any program, budget activity, subactivity, or project funded by this Act unless advance notice of such assessments and the basis therefor are presented to the Committees on Appropriations and are approved by such Committees.

SEC. 307. (a) COMPLIANCE WITH BUY AMERICAN ACT.—None of the funds made available in this Act may be expended by an entity unless the entity agrees that in expending the funds the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c; popularly known as the ''Buy American Act'').

(b) SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.—

(1) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or product that may be authorized to be purchased with financial assistance provided using funds made available in this Act, it is the sense of the Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products.

(2) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance using funds made available in this Act, the head of each Federal agency shall provide to each recipient of the assistance a notice describing the statement made in paragraph (1) by the Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a ''Made in America'' inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 308. None of the funds in this Act may be used to plan, prepare, or offer for sale timber from trees classified as giant sequoia (Sequoiadendron giganteum) which are located on National Forest System or Bureau of Land Management lands in a manner different than such sales were conducted in fiscal year 1995.

SEC. 309. None of the funds made available by this Act may be obligated or expended by the National Park Service to enter into or implement a concession contract which permits or requires the removal of the underground lunchroom at the Carlsbad Caverns National Park.

SEC. 310. Beginning in fiscal year 1998 and thereafter, where the actual costs of construction projects under self-determination contracts, compacts, or grants, pursuant to Public Laws 93–638, 103–413, or 100–297, are less than the estimated costs thereof, use of the resulting excess funds shall be determined by the appropriate Secretary after consultation with the tribes.

SEC. 311. Notwithstanding Public Law 103–413, quarterly payments of funds to tribes and tribal organizations under annual funding agreements pursuant to section 108 of Public Law 93–638, as amended, beginning in fiscal year 1998 and therafter, may be made on the first business day following the first day of a fiscal quarter.

SEC. 312. None of the funds appropriated or otherwise made available by this Act may be used for the AmeriCorps program, unless the relevant agencies of the Department of the Interior and/or Agriculture follow appropriate reprogramming guidelines: *Provided*, That if no funds are provided for the AmeriCorps program by the VA–HUD and Independent Agencies fiscal year 1998 appropriations bill, then none of the funds appropriated or otherwise made available by this Act may be used for the AmeriCorps programs.

SEC. 313. None of the funds made available in this Act may be used (1) to demolish the bridge between Jersey City, New Jersey, and Ellis Island; or (2) to prevent pedestrian use of such bridge, when it is made known to the Federal official having authority to obligate or expend such funds that such pedestrian use is consistent with generally accepted safety standards.

SEC. 314. (a) None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to accept or process applications for a patent for any mining or mill site claim located under the general mining laws.

(b) The provisions of subsection (a) shall not apply if the Secretary of the Interior determines that, for the claim concerned: (1) a patent application was filed with the Secretary on or before September 30, 1994; and (2) all requirements established under sections 2325 and 2326 of the Revised Statutes (30 U.S.C. 29 and 30) for vein or lode claims and sections 2329, 2330, 2331, and 2333 of the Revised Statutes (30 U.S.C. 35, 36, and 37) for placer claims, and section 2337 of the Revised Statutes (30 U.S.C. 42) for mill site claims, as the case may be, were fully complied with by the applicant by that date.

(c) On September 30, 1998, the Secretary of the Interior shall file with the House and Senate Committees on Appropriations and the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a report on actions taken by the Department under the plan submitted pursuant to section 314(c) of the Department of the Interior and Related Agencies Appropriations Act, 1997 (Public Law 104–208).

(d) MINERAL EXAMINATIONS.—In order to process patent applications in a timely and responsible manner, upon the request of a patent applicant, the Secretary of the Interior shall allow the applicant to fund a qualified third-party contractor to be selected by the Bureau of Land Management to conduct a mineral examination of the mining claims or mill sites contained in a patent application as set forth in subsection (b). The Bureau of Land Management shall have the sole

responsibility to choose and pay the third-party contractor in accordance with the standard procedures employed by the Bureau of Land Management in the retention of third-party contractors.

SEC. 315. None of the funds appropriated or otherwise made available by this Act may be used for the purposes of acquiring lands in the counties of Gallia, Lawrence, Monroe, or Washington, Ohio, for the Wayne National Forest.

[SEC. 316. None of the funds available to the Department of the Interior or the Department of Agriculture by this or any other Act may be used to prepare, promulgate, implement, or enforce any interim or final rule or regulation pursuant to title VIII of the Alaska National Interest Lands Conservation Act to assert jurisdiction, management, or control over any waters (other than non-navigable waters on Federal lands), non-Federal lands, or lands selected by, but not conveyed to, the State of Alaska pursuant to the Submerged Lands Act of 1953 or the Alaska Statehood Act, or an Alaska Native Corporation pursuant to the Alaska Native Claims Settlement Act.

[SEC. 317. No funds appropriated under this or any other Act shall be used to review or modify sourcing areas previously approved under section 490(c)(3) of the Forest Resources Conservation and Shortage Relief Act of 1990 (Public Law 101–382) or to enforce or implement Federal regulations 36 CFR part 223 promulgated on September 8, 1995. The regulations and interim rules in effect prior to September 8, 1995 (36 CFR 223.48, 36 CFR 223.87, 36 CFR 223 subpart D, 36 CFR 223 subpart F, and 36 CFR 261.6) shall remain in effect. The Secretary of Agriculture or the Secretary of the Interior shall not adopt any policies concerning Public Law 101–382 or existing regulations that would restrain domestic transportation or processing of timber from private lands or impose additional accountability requirements on any timber. The Secretary of Commerce shall extend until September 30, 1998, the order issued under section 491(b)(2)(A) of Public Law 101–382 and shall issue an order under section 491(b)(2)(B) of such law that will be effective October 1, 1998.

[SEC. 318. No part of any appropriation contained in this Act shall be expended or obligated to fund the activities of the western director and special assistant to the Secretary within the Office of the Secretary of Agriculture.]

SEC. 318. No part of any appropriation contained in this Act shall be expended or obligated to fund the activities of the western director and special assistant to the Secretary within the Office of the Secretary of Agriculture unless the proposed expenditure is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in the report accompanying this bill.

SEC. 319. Notwithstanding any other provision of law, for fiscal year 1998 *and hereafter* the Secretaries of Agriculture and Interior are authorized to limit competition for watershed restoration project contracts as part of the ''Jobs in the Woods'' component of the President's Forest Plan for the Pacific Northwest to individuals and entities in historically timber-dependent areas in the States of Washington, Oregon, and northern California that have been affected by reduced timber harvesting on Federal lands.

[SEC. 320. Section 101(c) of Public Law 104–134 is amended as follows: Under the heading ''TITLE III—GENERAL PROVISIONS'' amend section 315(c)(1), subsections (A) and (B) by striking each of those subsections and inserting in lieu thereof:

[''(A) Eighty percent to a special account in the Treasury for use without further appropriation, by the agency which administers the site, to remain available for expenditure in accordance with paragraph (2)(A).

[''(B) Twenty percent to a special account in the Treasury for use without further appropriation, by the agency which administers the site, to remain available for expenditure in accordance with paragraph (2)(B).''.]

SEC. 321. None of the funds collected under the Recreational Fee Demonstration program may be used to plan, design, or construct a visitor center or any other permanent structure without prior approval of the House and the Senate Committees on Appropriations *if the estimated total cost of the facility exceeds $500,000.*

SEC. 322. Section 303(d)(1) of Public Law 96–451 (16 U.S.C. 1606a(d)(1)) is amended by inserting before the semicolon the following: ''and other forest stand improvement activities to enhance forest health and reduce hazardous fuel loads of forest stands in the National Forest System''.

[SEC. 323. The Secretaries of Agriculture and Interior, in their conducting the Interior Columbia Basin Ecosystem Management Project, including both the Eastside Draft Environmental Impact Statement and the Upper Columbia River Basin Ecosystem Management Strategy Draft Environmental Impact Statement as described in a Federal Register notice on January 15, 1997 (Vol. 62, No. 10, page 2176) (hereinafter ''Project''), shall analyze the economic and social conditions, and culture and customs of communities at the sub-basin level of analysis within the project area to the extent practicable and delineate the impacts the alternatives will have on the communities in the 164 sub-basins. The project managers shall release this more thorough analysis for public review as an addition to the draft environmental impact statements for the project, and incorporate this analysis and public comments to this analysis in any final environmental impact statements and record of decisions generated by the project.]

SEC. 324. Notwithstanding section 904(b) of Public Law 104–333, hereafter, the Heritage Area established under section 904 of title IX of division II of Public Law 104–333 shall include any portion of a city, town, or village within an area specified in section 904(b)(2) of that Act only to the extent that the government of the city, town, or village, in a resolution of the governing board or council, agrees to be included and submits the resolution to the Secretary of the Interior and the management entities for the Heritage Area and to the extent such resolution is not subsequently revoked in the same manner.

[SEC. 325. None of the funds appropriated or otherwise made available to the Indian Health Service by this Act may be used to restructure the funding of Indian health care delivery systems to Alaskan Natives.]

SEC. 325. (a) Notwithstanding any other provision of law, and except as provided in this section, the Aleutian/Pribilof Islands Association, Inc., Bristol Bay Area Health Corporation, Chugachmiut, Copper River Native Association, Kodiak Area Native Area Association, Maniilaq Association, Metlakatla Indian Community, Arctic Slope Native Association, Ltd., Norton Sound Health Corporation, Southcentral Foundation, Southeast Alaska Regional Health Consortium, Tanana Chiefs Conference, Inc., and Yukon-Kuskokwim Health Corporation (hereinafter ''regional health entities''), without further resolutions from the Regional Corporations, Village Corporations, Indian Reorganization Act Councils, tribes and/or villages which they represent are authorized to form a consortium (hereinafter ''the Consortium'') to enter into contracts, compacts, or funding agreements under Public Law 93–638 (25 U.S.C. 450 et seq.), as amended, to provide all statewide health services provided by the Indian Health Service of the U.S. Department of Health and Human Services through the Alaska Native Medical Center and the Alaska Area Office. Each specified ''regional health entity'' shall maintain that status for purposes of participating in the Consortium only so long as it operates a regional health program for the Indian Health Service under Public Law 93–638 (25 U.S.C. 450 et seq.), as amended.

(b) The Consortium shall be governed by a 15 member Board of Directors, which shall be composed of one representative of each regional health entity listed in subsection (a) above, and two additional persons who shall represent Indian tribes, as defined in 25 U.S.C. 450b(e), and sub-regional tribal organizations which operate health programs not affiliated with the regional health entities listed above and Indian tribes not receiving health services from any tribal, regional or sub-regional health provider. Each member of the Board of Directors shall be entitled to cast one vote. Decisions of the Board of Directors shall be made by consensus whenever possible, and by majority vote in the event that no consensus can be reached. The Board of Directors shall establish at its first meeting its rules of procedure, which shall be published and made available to all members.

(c) The statewide health services (including any programs, functions, services and activities provided as part of such services) of the Alaska Native Medical Center and the Alaska Area Office may only be provided by the Consortium. Statewide health services for purposes of this section shall consist of all programs, functions, services, and activities provided by or through the Alaska Native Medical Center and the Alaska Area Office, not under contract or other funding agreement with any other tribe or tribal organization as of October 1, 1997, except as provided in subsection (d) below. All statewide health services provided by the Consortium under this section shall be provided pursuant to contracts or funding agreements entered into by the Consortium under Public Law 93–638 (25 U.S.C. 450 et seq.), as amended, and for such purpose the Consortium shall be deemed to have mature contract status as defined in section 4(h) of the Indian Self-Determination and Education Assistance Act, 25 U.S.C. 450b(h).

(d) Cook Inlet Region, Inc., through Southcentral Foundation (or any successor health care entity designated by Cook Inlet Region, Inc.) pursuant to Public Law 93–638 (25 U.S.C. 450 et seq.), as amended, is hereby authorized to enter into contracts or funding agreements under such Public Law for all services, provided at or through the Alaska Native Primary Care Center or other satellite clinics in Anchorage or the Matanuska-Susitna Valley without submission of any further authorizing resolutions from any other Alaska Native Region, village corporation, Indian Reorganization Act council, or tribe, no matter where located. Services provided under this paragraph shall, at a minimum, maintain the level of statewide and Anchorage Service Unit services provided at the Alaska Native Primary Care Center as of October 1, 1997, including necessary related services performed at the Alaska Native Medical Center. In addition, Cook Inlet Region, Inc., through Southcentral Foundation, or any lawfully designated health care entity of Cook Inlet Region, Inc., shall contract or enter into a funding agreement under Public Law 93–638 (25 U.S.C. 450 et seq.), as amended, for all primary care services provided by the Alaska Native Medical Center, including, but not limited to, family medicine, primary care internal medicine, pediatrics, obstetrics and gynecology, physical therapy, psychiatry, emergency services, public health nursing, health education, optometry, dentistry, audiology, social services, pharmacy, radiology, laboratory and biomedical, and the administrative support for these programs, functions, services and activities. Cook Inlet Region,

Inc., through Southcentral Foundation, or any lawfully designated health care entity of Cook Inlet Region, Inc., may provide additional health care services at the Alaska Native Medical Center if such use and services are provided pursuant to an agreement with the Consortium. All services covered by this subsection shall be provided on a nondiscriminatory basis without regard to residency within the Municipality of Anchorage.

SEC. 326. (a) Notwithstanding any other provision of law, after September 30, 1997 the Indian Health Service may not disburse funds for the provision of health care services pursuant to Public Law 93–638 (25 U.S.C. 450 et seq.), with any Alaska Native village or Alaska Native village corporation that is located within the area served by an Alaska Native regional health entity.

(b) Nothing in this section shall be construed to prohibit the disbursal of funds to any Alaska Native village or Alaska Native village corporation under any contract or compact entered into prior to May 1, 1997, or to prohibit the renewal of any such agreement.

(c) The General Accounting Office shall conduct a study of the impact of contracting and compacting by the Indian Health Service under Public Law 93–638 with Alaska Native villages and Alaska Native village corporations for the provision of health care services on the provision of health care services by Alaska Native regional corporation health care entities. The General Accounting Office shall submit the results of that study to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House by June 1, 1998.

[SEC. 326. None of the funds made available by this Act may be used for the eviction of any person from real property in Sleeping Bear Dunes National Lakeshore that the person was authorized, on July 10, 1997, to occupy under a lease by the Department of the Interior or a special use permit issued by the Department of the Interior.

[SEC. 327. None of the funds made available by this Act may be obligated or expended for the Man and Biosphere Program or the World Heritage Program administered by the United Nations Educational, Scientific, and Cultural Organization (UNESCO).]

SEC. 328. None of the funds made available in this or any other Act for any fiscal year may be used to designate, or to post any sign designating, any portion of Canaveral National Seashore in Brevard County, Florida, as a clothing-optional area or as an area in which public nudity is permitted, if such designation would be contrary to county ordinance.

SEC. 329. Of the funds provided to the National Endowment for the Arts:

(a) The Chairperson shall only award a grant to an individual if such grant is awarded to such individual for a literature fellowship, National Heritage Fellowship, or American Jazz Masters Fellowship.

(b) The Chairperson shall establish procedures to ensure that no funding provided through a grant, except a grant made to a State or local arts agency, or regional group, may be used to make a grant to any other organization or individual to conduct activity independent of the direct grant recipient. Nothing in this subsection shall prohibit payments made in exchange for goods and services.

(c) No grant shall be used for seasonal support to a group, unless the application is specific to the contents of the season, including identified programs and/or projects.

SEC. 330. The National Endowment for the Arts and the National Endowment for the Humanities are authorized to solicit, accept, receive, and invest in the name of the United States, gifts, bequests, or devises of money and other property or services and to use such in furtherance of the functions of the National Endowment for the Arts and the National Endowment for the Humanities. Any proceeds from such gifts, bequests, or devises, after acceptance by the National Endowment for the Arts or the National Endowment for the Humanities, shall be paid by the donor or the representative of the donor to the Chairman. The Chairman shall enter the proceeds in a special interest-bearing account to the credit of the appropriate Endowment for the purposes specified in each case.

SEC. 331. In fiscal years 1998 through 2002, the Secretaries of the Interior and Agriculture may make reciprocal delegations of their respective authorities, duties and responsibilities in support of joint pilot programs to promote customer service and efficiency in the management of public lands and national forests: Provided, That nothing herein shall alter, expand or limit the existing applicability of any public law or regulation to lands administered by the Bureau of Land Management or the United States Forest Service.

SEC. 332. No part of any appropriation contained in this Act shall be expended or obligated to fund any activities associated with revision of national forest land management plans until the administration publishes new final rules in the Federal Register for forest land management planning activities.

SEC. 333. No part of any appropriation contained in this Act shall be expended or obligated to fund any activities associated with issuance of the five year program under the Forest and Rangeland Renewable Resources Planning Act.

SEC. 334. (a) WATERSHED RESTORATION AND ENHANCEMENT AGREEMENTS—IN GENERAL.—For fiscal year 1998 and each year thereafter, appropriations for the Forest Service may be used by the Secretary of Agriculture for the purpose of entering into cooperative agreements with willing state and local governments, private and non-profit entities and landowners for protection, restoration and enhancement of fish and wildlife habitat, and other resources on public or private land or both that benefit these resources within the watershed.

(b) DIRECT AND INDIRECT WATERSHED AGREEMENTS.—The Secretary of Agriculture may enter into a watershed restoration and enhancement agreement—

(1) directly with a willing private landowner; or

(2) indirectly through an agreement with a state, local or tribal government or other public entity, educational institution, or private nonprofit organization.

(c) TERMS AND CONDITIONS.—In order for the Secretary to enter into a watershed restoration and enhancement agreement—

(1) the agreement shall—

(A) include such terms and conditions mutually agreed to by the Secretary and the landowner;

(B) improve the viability of and otherwise benefit the fish, wildlife, and other resources on national forests lands within the watershed;

(C) authorize the provision of technical assistance by the Secretary in the planning of management activities that will further the purposes of the agreement;

(D) provide for the sharing of costs of implementing the agreement among the Federal government, the landowner(s), and other entities, as mutually agreed on by the affected interests; and

(E) ensure that any expenditure by the Secretary pursuant to the agreement is determined by the Secretary to be in the public interest; and

(2) the Secretary may require such other terms and conditions as are necessary to protect the public investment on non-federal lands, provided such terms and conditions are mutually agreed to by the Secretary and other land owners, state and local governments or both.

SEC. 335. The joint resolution entitled ''Joint Resolution to establish a commission to formulate plans for a memorial to Franklin Delano Roosevelt'', approved August 11, 1955 (69 Stat. 694), is amended—

(a) in the first section by inserting before the last sentence the following: ''The Commission shall submit a final report to the President and Congress prior to termination.'';

(b) by redesignating section 4 as section 5; and

(c) by inserting after section 3 the following:

''TERMINATION OF THE COMMISSION

''SEC. 4. (a) IN GENERAL.—The Commission shall terminate on the earlier of—

''(1) December 31, 1997; or

''(2) the date that the Commission reports to the President and the Congress that the Commission's work is complete.

''(b) COMMISSION FUNDS.—

''(1) DESIGNATION.—Before the termination of the Commission, the Commission shall designate a nonprofit organization to collect, manage, and expend Commission funds after its termination.

''(2) TRANSFER OF FUNDS.—Before termination the Commission shall transfer all Commission funds to the entity designated under paragraph (1).

''(3) AMOUNTS COLLECTED AFTER TERMINATION.—The entity designated under paragraph (1) shall have the right to collect any amounts accruing to the Commission after the Commission's termination, including amounts—

(A) given to the Commission as a gift or bequest; or

(B) raised from the sale of coins issued under the United States Commemorative Coin Act of 1996 (110 Stat. 4005; 31 U.S.C. 5112 note).

''(4) USES OF FUNDS.—The Commission may specify uses for any funds made available under this section to the entity designated under paragraph (1), including—

''(A) to provide for the support, maintenance, and repair of the Memorial; and

''(B) to interpret and educate the public about the Memorial.

''(5) NEGOTIATION AND CONTRACT.—The Commission may negotiate and contract with a nonprofit organization before designating the organization under paragraph (1).''.

SEC. 336. To facilitate priority land exchanges through which the United States will receive land within the White Salmon Wild and Scenic River boundaries and within the Columbia River Gorge National Scenic Area, the Secretary of Agriculture may hereafter accept title to such lands deemed appropriate by the Secretary within the States of Oregon and Washington, regardless of the State in which the transferred lands are located, following existing exchange authorities.

SEC. 337. The boundary of the Wenatchee National Forest in Chelan County, Washington, is hereby adjusted to exclude section 1 of Township 23 North, Range 19 East, Willamette Meridian.

SEC. 338. None of the funds provided in this Act can be used for any activities associated with the Center of Excellence for Sustainable Development unless a budget request has been submitted and approved by the Committees on Appropriations of the House of Representatives and the United States Senate.

SEC. 339. (a) No funds provided in this or any other act may be expended to develop a rulemaking proposal to amend or replace the Bureau of Land Management regulations found at 43 C.F.R. 3809 or to prepare a draft environmental impact statement on any such proposal, until the Secretary of the Interior establishes a Committee which shall prepare and submit a report in accordance with this section.

(b) The Committee shall be composed of appropriate representatives from the Department of the Interior and a representative appointed by the Governor from each State that contains public lands open to location under the General Mining Laws. The Committee shall be established and operated pursuant to the terms of the Federal Advisory Committee Act, 5 U.S.C. ap 2 1 et seq.

(c) The Committee established pursuant to subsection (b) shall prepare and submit a report

to the Committees on Energy and Natural Resources and Appropriations of the United States Senate and the Committees on Resources and Appropriations of the United States House of Representatives which (1) contains consensus recommendations on the appropriate relationship of States and Federal land management agencies in environmental, land management and regulation of activities subject to the Bureau's regulations at 43 C.F.R. 3809, (2) identifies current and proposed State environmental, land management and reclamation laws, regulations, performance standards and policies applicable to such activities, including those State laws and regulations which have been adopted to achieve primacy in the administration of federally mandated efforts; (3) explains how these current State laws, regulations, performance standards and policies are coordinated with Federal surface management efforts; and (4) contains consensus recommendations for how Federal and State coordination can be maximized in the future to ensure environmental protection and minimize regulatory duplication, conflict and burdens.

SEC. 340. (a) The Secretary of Agriculture shall convey to Skamania County, Washington, all right, title, and interest of the United States in and to a parcel of unused real property known as the Wind River Nursery site, Gifford Pinchot National Forest, Washington. (See U.S. Department of Interior Geological Survey modified for USDA Forest Service map, Stabler Quadrangle, Washington, Skamania County, 7.5 minutes series, topographic, Provisional Edition 1983). The conveyance under this subsection shall include all improvements to the parcel, including all infrastructure, water rights, easements, and personal property.

(b) As consideration for the conveyance under subsection (b), Skamania County shall convey to the United States all right, title, and interest of the county in a parcel of approximately 120 acres of high biodiversity, special management area land located within the Columbia River Gorge National Scenic Area.

(c) The exact acreage and legal description of the real property to be exchanged by Skamania County under this section shall be determined by a survey. The cost of any such survey shall be borne by Skamania County.

(d) The conveyances made pursuant to this section shall be subject to existing valid rights.

(e) Section 120(h) of the Comprehensive Environmental Response, Compensation, Liability Act of 1980 (42 U.S.C. 9620(h)) shall apply to the conveyance required under subsection (b).

(f) The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States consistent with existing law.

SEC. 341. (a) LOCAL EXEMPTIONS FROM FOREST SERVICE USER FEES DUE TO LESS THAN FULL FUNDING OF PAYMENTS IN LIEU OF TAXES.—Section 6906 of title 31, United States Code, is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''Necessary''; and

(2) by adding at the end the following:

''(b) LOCAL EXEMPTIONS FROM USER FEES DUE TO INSUFFICIENT APPROPRIATIONS.—

''(1) IN GENERAL.—Unless sufficient funds are appropriated for a fiscal year to provide full payments under this chapter to each unit of general local government eligible for the payments, persons residing within the boundaries of that unit of general local government shall be exempt during that fiscal year from any requirement to pay a recreational user fee imposed by the Secretary of Agriculture for access to the White Mountain National Forest that lies, in whole or in part, within those boundaries.

''(2) ADMINISTRATION.—The Secretary of Agriculture shall establish a method of identifying persons who are exempt from requirements to pay user fees under paragraph (1).''.

SEC. 342. None of the funds in this or any other Act shall be expended by the Department of the Interior, the Forest Service or any other Federal agency, for the introduction of the grizzly bear population in the Selway-Bitteroot area of Idaho and adjacent Montana, or for consultations under section 7(b)(2) of the Endangered Species Act for Federal actions affecting grizzly bear within the Selway-Bitteroot area of Idaho, except that, funds may be used by the Department of the Interior or the Forest Service, or any other Federal agency for the purposes of receiving public comment on the draft Environmental Impact Statement dated July 1997, and for conducting a habitat-based population viability analysis.

[TITLE IV—DEFICIT REDUCTION LOCK-BOX

[SEC. 401. SHORT TITLE.

[This title may be cited as the ''Deficit Reduction Lock-box Act of 1997''.

[SEC. 402. DEFICIT REDUCTION LOCK-BOX LEDGER.

[(a) ESTABLISHMENT OF LEDGER.—Title III of the Congressional Budget Act of 1974 is amended by adding at the end the following new section:

[''DEFICIT REDUCTION LOCK-BOX LEDGER

[''SEC. 314. (a) ESTABLISHMENT OF LEDGER.—The Director of the Congressional Budget Office (hereinafter in this section referred to as the 'Director') shall maintain a ledger to be known as the 'Deficit Reduction Lock-box Ledger'. The Ledger shall be divided into entries corresponding to the subcommittees of the Committees on Appropriations. Each entry shall consist of three parts: the 'House Lock-box Balance'; the 'Senate Lock-box Balance'; and the 'Joint House-Senate Lock-box Balance'.

[''(b) COMPONENTS OF LEDGER.—Each component in an entry shall consist only of amounts credited to it under subsection (c). No entry of a negative amount shall be made.

[''(c) CREDIT OF AMOUNTS TO LEDGER.—(1) The Director shall, upon the engrossment of any appropriation bill by the House of Representatives and upon the engrossment of that bill by the Senate, credit to the applicable entry balance of that House amounts of new budget authority and outlays equal to the net amounts of reductions in new budget authority and in outlays resulting from amendments agreed to by that House to that bill.

[''(2) The Director shall, upon the engrossment of Senate amendments to any appropriation bill, credit to the applicable Joint House-Senate Lock-box Balance the amounts of new budget authority and outlays equal to—

[''(A) an amount equal to one-half of the sum of (i) the amount of new budget authority in the House Lock-box Balance plus (ii) the amount of new budget authority in the Senate Lock-box Balance for that bill; and

[''(B) an amount equal to one-half of the sum of (i) the amount of outlays in the House Lock-box Balance plus (ii) the amount of outlays in the Senate Lock-box Balance for that bill.

[''(3) CALCULATION OF LOCK-BOX SAVINGS IN SENATE.—For purposes of calculating under this section the net amounts of reductions in new budget authority and in outlays resulting from amendments agreed to by the Senate on an appropriation bill, the amendments reported to the Senate by its Committee on Appropriations shall be considered to be part of the original text of the bill.

[''(d) DEFINITION.—As used in this section, the term 'appropriation bill' means any general or special appropriation bill, and any bill or joint resolution making supplemental, deficiency, or continuing appropriations through the end of a fiscal year.''.

[(b) CONFORMING AMENDMENT.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 313 the following new item:

[''Sec. 314. Deficit reduction lock-box ledger.''.

[SEC. 403. TALLY DURING HOUSE CONSIDERATION.

[There shall be available to Members in the House of Representatives during consideration of any appropriations bill by the House a running tally of the amendments adopted reflecting increases and decreases of budget authority in the bill as reported.

[SEC. 404. DOWNWARD ADJUSTMENT OF 602(a) ALLOCATIONS AND SECTION 602(b) SUBALLOCATIONS.

[(a) ALLOCATIONS.—Section 602(a) of the Congressional Budget Act of 1974 is amended by adding at the end the following new paragraph:

[''(5) Upon the engrossment of Senate amendments to any appropriation bill (as defined in section 314(d)) for a fiscal year, the amounts allocated under paragraph (1) or (2) to the Committee on Appropriations of each House upon the adoption of the most recent concurrent resolution on the budget for that fiscal year shall be adjusted downward by the amounts credited to the applicable Joint House-Senate Lock-box Balance under section 314(c)(2). The revised levels of budget authority and outlays shall be submitted to each House by the chairman of the Committee on the Budget of that House and shall be printed in the Congressional Record.''.

[(b) SUBALLOCATIONS.—Section 602(b)(1) of the Congressional Budget Act of 1974 is amended by adding at the end the following new sentence: ''Whenever an adjustment is made under subsection (a)(5) to an allocation under that subsection, the chairman of the Committee on Appropriations of each House shall make downward adjustments in the most recent suballocations of new budget authority and outlays under subparagraph (A) to the appropriate subcommittees of that committee in the total amounts of those adjustments under section 314(c)(2). The revised suballocations shall be submitted to each House by the chairman of the Committee on Appropriations of that House and shall be printed in the Congressional Record.''.

[SEC. 405. PERIODIC REPORTING OF LEDGER STATEMENTS.

[Section 308(b)(1) of the Congressional Budget Act of 1974 is amended by adding at the end the following new sentence: ''Such reports shall also include an up-to-date tabulation of the amounts contained in the ledger and each entry established by section 314(a).''.

[SEC. 406. DOWNWARD ADJUSTMENT OF DISCRETIONARY SPENDING LIMITS.

[The discretionary spending limits for new budget authority and outlays for any fiscal year set forth in section 601(a)(2) of the Congressional Budget Act of 1974, as adjusted in strict conformance with section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985, shall be reduced by the amounts set forth in the final regular appropriation bill for that fiscal year or joint resolution making continuing appropriations through the end of that fiscal year. Those amounts shall be the sums of the Joint House-Senate Lock-box Balances for that fiscal year, as calculated under section 602(a)(5) of the Congressional Budget Act of 1974. That bill or joint resolution shall contain the following statement of law: ''As required by section 406 of the Deficit Reduction Lock-box Act of 1997, for fiscal year [nsert appropriate fiscal year] and each outyear, the adjusted discretionary spending limit for new budget

authority shall be reduced by $ [insert appropriate amount of reduction] and the adjusted discretionary limit for outlays shall be reduced by $ [insert appropriate amount of reduction] for the budget year and each outyear.''. Notwithstanding section 904(c) of the Congressional Budget Act of 1974, section 306 of that Act as it applies to this statement shall be waived. This adjustment shall be reflected in reports under sections 254(g) and 254(h) of the Balanced Budget and Emergency Deficit Control Act of 1985.

[SEC. 407. EFFECTIVE DATE.

[(a) IN GENERAL.—This title shall apply to all appropriation bills making appropriations for fiscal year 1998 or any subsequent fiscal year.

[(b) DEFINITION.—As used in this section, the term ''appropriation bill'' means any general or special appropriation bill, and any bill or joint resolution making supplemental, deficiency, or continuing appropriations through the end of a fiscal year.]

TITLE V—PRIORITY LAND ACQUISITIONS AND EXCHANGES

For priority land acquisitions and land exchange agreements to be conducted by the Bureau of Land Management, the U.S. Fish and Wildlife Service, the National Park Service and the U.S. Forest Service, $700,000,000, to be derived from the Land and Water Conservation Fund, to remain available until September 30, 2001, of which not to exceed $65,000,000 may be available for the acquisition of identified lands and interests in lands to carry out the Agreement of August 12, 1996, to acquire interests to protect and preserve Yellowstone National Park, of which not to exceed $250,000,000 may be available for the acquisition of identified lands and interest in lands, at the purchase price specified, in the September 28, 1996, Headwaters Forest Agreement, and of which $100,000,000 shall be available for financial assistance to States pursuant to section 6 of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l–4–11): Provided, That the Secretary of the Interior, after consultation with the Secretary of Agriculture and with the House Committee on Appropriations and the Senate Committee on Appropriations, shall submit to the Committees a list of Federal acquisitions and exchanges proposed to be conducted with the funds provided under this heading: Provided further, That none of the funds appropriated under this heading shall be available until the House Committee on Appropriations and the Senate Committee on Appropriations approve, in writing, a project list to be submitted by the Secretary: Provided further, That none of the funds appropriated under this heading shall be available for the acquisition of lands and interests in lands to carry out the Agreement of August 12, 1996, to acquire interests to protect and preserve Yellowstone National Park, or for the acquisition of lands and interest in lands identified in the September 28, 1996, Headwaters Forest Agreement until enactment of legislation specifically authorizing such expenditure: Provided further, That any funds made available for the purpose of acquisition of the Elwha and Glines dams shall be used solely for acquisition, and shall not be expended until the full purchase amount has been appropriated by the Congress: Provided further, That of the funds provided herein, $8,500,000 is available for acquisition of the Sterling Forest: Provided further, That the National Park Service may use not to exceed $2,500,000 annually of the amounts provided herein for the state assistance program to administer the state assistance program.

TITLE VI—FOREST RESOURCES CONSERVATION AND SHORTAGE RELIEF

SECTION 1. SHORT TITLE.—This Act may be cited as the ''Forest Resources Conservation and Shortage Relief Act of 1997''.

SEC. 2. (a) USE OF UNPROCESSED TIMBER—LIMITATION ON SUBSTITUTION OF UNPROCESSED FEDERAL TIMBER FOR UNPROCESSED TIMBER FROM PRIVATE LAND.—Section 490 of the Forest Resources Conservation and Shortage Relief Act of 1990 (16 U.S.C. 620b) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting ''paragraph (3) and'' after ''provided in''; and

(B) by adding at the end the following:

''(3) APPLICABILITY.—In the case of the purchase by a person of unprocessed timber originating from Federal lands west of the 119th meridian in the State of Washington, this paragraph shall apply only if—

''(A) the private lands referred to in paragraph (1) are owned by the person; or

''(B) the person has the exclusive right to harvest timber from the private lands described in paragraph (1) during a period of more than 7 years, and may exercise that right at any time of the person's choosing.'';

(2) in subsection (c)—

(A) in the subsection heading, by striking ''APPROVAL OF'';

(B) in paragraph (2)—

(i) in the paragraph heading, by inserting ''FOR SOURCING AREAS FOR PROCESSING FACILITIES LOCATED OUTSIDE THE NORTHWESTERN PRIVATE TIMBER OPEN MARKET AREA''; after ''APPLICATION''; and

(ii) in subparagraph (A), by inserting ''(except private land located in the northwestern private timber open market area)'' after ''lands'';

(C) in paragraph (3)—

(i) in the paragraph heading, by inserting ''FOR SOURCING AREAS FOR PROCESSING FACILITIES LOCATED OUTSIDE OF THE NORTHWESTERN PRIVATE TIMBER OPEN MARKET AREA.—(A) IN GENERAL''; after ''APPROVAL''; and

(ii) by striking the last sentence of paragraph (3) and adding at the end the following:

''(B) FOR TIMBER MANUFACTURING FACILITIES LOCATED IN IDAHO.—Except as provided in subparagraph (D), in making a determination referred to in subparagraph (A), the Secretary concerned shall consider the private timber export and the private and Federal timber sourcing patterns for the applicant's timber manufacturing facilities, as well as the private and Federal timber sourcing patterns for the timber manufacturing facilities of other persons in the same local vicinity of the applicant, and the relative similarity of such private and Federal timber sourcing patterns.

''(C) FOR TIMBER MANUFACTURING FACILITIES LOCATED IN STATES OTHER THAN IDAHO.—Except as provided in subparagraph (D), in making the determination referred to in subparagraph (A), the Secretary concerned shall consider the private timber export and the Federal timber sourcing patterns for the applicant's timber manufacturing facilities, as well as the Federal timber sourcing patterns for the timber manufacturing facilities of other persons in the same local vicinity of the applicant, and the relative similarity of such Federal timber sourcing patterns. Private timber sourcing patterns shall not be a factor in such determinations in States other than Idaho.

''(D) AREA NOT INCLUDED.—In deciding whether to approve or disapprove an application, the Secretary shall not—

''(i) consider land located in the northwestern private timber open market area; or

''(ii) condition approval of the application on the inclusion of any such land in the applicant's sourcing area, such land being includable in the sourcing area only to the extent requested by the applicant.'';

(D) in paragraph (4), in the paragraph heading, by inserting ''for sourcing areas for processing facilities located outside the northwestern private timber open market area''; after ''application'';

(E) in paragraph (5), in the paragraph heading, by inserting ''for sourcing areas for processing facilities located outside the northwestern private timber open market area''; after ''Determinations''; and

(F) by adding at the end the following:

''(6) SOURCING AREAS FOR PROCESSING FACILITIES LOCATED IN THE NORTHWESTERN PRIVATE TIMBER OPEN MARKET AREA—

''(A) ESTABLISHMENT.— In the northwestern private timber open market area—

''(i) a sourcing area boundary shall be a circle around the processing facility of the sourcing area applicant or holder;

''(ii) the radius of the circle—

''(I) shall be the furthest distance that the sourcing area applicant or holder proposes to haul Federal timber for processing at the processing facility; and

''(II) shall be determined solely by the sourcing area applicant or holder;

''(iii) a sourcing area shall become effective on written notice to the Regional Forester for Region 6 of the Forest Service of the location of the boundary of the sourcing area;

''(iv) the 24-month requirement in paragraph (1)(A) shall not apply;

''(v) a sourcing area holder—

''(I) may adjust the radius of the sourcing area not more frequently than once every 24 months; and

''(II) shall provide written notice to the Regional Forester for Region 6 of the adjusted boundary of its sourcing area before using the adjusted sourcing area; and

''(vi) a sourcing area holder that relinquishes a sourcing area may not reestablish a sourcing area for that processing facility before the date that is 24 months after the date on which the sourcing area was relinquished.

''(B) TRANSITION.—With respect to a portion of a sourcing area established before the date of enactment of this paragraph that contains Federal timber under contract before that date and is outside the boundary of a new sourcing area established under subparagraph (A)—

''(i) that portion shall continue to be a sourcing area only until unprocessed Federal timber from the portion is no longer in the possession of the sourcing area holder; and

''(ii) unprocessed timber from private land in that portion shall be exportable immediately after unprocessed timber from Federal land in the portion is no longer in the possession of the sourcing area holder.

''(7) RELINQUISHMENT AND TERMINATION OF SOURCING AREAS.—

''(A) IN GENERAL.—A sourcing area may be relinquished at any time.

''(B) EFFECTIVE DATE.—A relinquishment of a sourcing area shall be effective as of the date on which written notice is provided by the sourcing area holder to the Regional Forester with jurisdiction over the sourcing area where the processing facility of the holder is located.

''(C) EXPORTABILITY.—

''(i) IN GENERAL.—On relinquishment or termination of a sourcing area, unprocessed timber from private land within the former boundary of the relinquished or terminated sourcing area is exportable immediately after unprocessed timber from Federal land from within that area is no longer in the possession of the former sourcing area holder.

''(ii) NO RESTRICTION.—The exportability of unprocessed timber from private land located outside of a sourcing area shall not be restricted or in any way affected by relinquishment or termination of a sourcing area.''; and

(3) by adding at the end the following:

''(d) DOMESTIC TRANSPORTATION AND PROCESSING OF PRIVATE TIMBER.—Nothing in this section restricts or authorizes any restriction on the domestic transportation or processing of timber harvested from private land, except that the Secretary may prohibit processing facilities located in the State of Idaho that have sourcing areas from processing timber harvested from private land outside of the boundaries of those sourcing areas.''.

(b) RESTRICTION ON EXPORTS OF UNPROCESSED TIMBER FROM STATE AND PUBLIC LAND.—Section 491(b)(2) of the Forest Resources Conservation and Shortage Relief Act of 1990 (16 U.S.C. 620c(b)(2)) is amended—

(1) by striking ''the following'' and all that follows through ''(A) The Secretary'' and inserting ''the Secretary'';

(2) by striking ''during the period beginning on June 1, 1993, and ending on December 31, 1995'' and inserting ''as of the date of enactment of the Forest Resources Conservation and Shortage Relief Act of 1997''; and

(3) by striking subparagraph (B).

SEC. 3. MONITORING AND ENFORCEMENT.—Section 492 of the Forest Resources Conservation and Shortage Relief Act of 1990 (16 U.S.C. 620d) is amended—

(1) in subsection (c)(2), by adding at the end the following:

''(C) MITIGATION OF PENALTIES.—

''(i) IN GENERAL.—The Secretary concerned—

''(I) in determining the applicability of any penalty imposed under this paragraph, shall take into account all relevant mitigating factors, including mistake, inadvertence, and error; and

''(II) based on any mitigating factor, may, with respect to any penalty imposed under this paragraph—

''(aa) reduce the penalty;

''(bb) not impose the penalty; or

''(cc) on condition of there being no further violation under this paragraph for a prescribed period, suspend imposition of the penalty.

''(ii) CONTRACTUAL REMEDIES.—In the case of a minor violation of this title (including a regulation), the Secretary concerned shall, to the maximum extent practicable, permit a contracting officer to redress the violation in accordance with the applicable timber sale contract rather than assess a penalty under this paragraph.''; and

(2) in subsection (d)(1)—

(A) by striking ''The head'' and inserting the following:

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

(B) by adding at the end the following:

''(B) PREREQUISITES FOR DEBARMENT.—

''(i) IN GENERAL.—No person may be debarred from bidding for or entering into a contract for the purchase of unprocessed timber from Federal lands under subparagraph (A) unless the head of the appropriate Federal department or agency first finds, on the record and after an opportunity for a hearing, that debarment is warranted.

''(ii) WITHHOLDING OF AWARDS DURING DEBARMENT PROCEEDINGS.—The head of an appropriate Federal department or agency may withhold an award under this title of a contract for the purchase of unprocessed timber from Federal lands during a debarment proceeding.''.

SEC. 4. DEFINITIONS.—Section 493 of the Forest Resources Conservation and Shortage Relief Act of 1990 (16 U.S.C. 620e) is amended—

(1) by redesignating paragraphs (3) through (8) as paragraphs (5) through (10), respectively;

(2) by inserting after paragraph (2) the following:

''(3) MINOR VIOLATION.—The term 'minor violation' means a violation, other than an intentional violation, involving a single contract, purchase order, processing facility, or log yard involving a quantity of logs that is less than 25 logs and has a total value (at the time of the violation) of less than $10,000.

''(4) NORTHWESTERN PRIVATE TIMBER OPEN MARKET AREA.—The term 'northwestern private timber open market area' means the State of Washington.'';

(3) in subparagraph (B)(ix) of paragraph (9) (as redesignated by paragraph (1))—

(A) by striking ''Pulp logs or cull logs'' and inserting ''Pulp logs, cull logs, and incidental volumes of grade 3 and 4 sawlogs'';

(B) by inserting ''primary'' before ''purpose''; and

(C) by striking the period at the end and inserting: '', or to the extent that a small quantity of such logs are processed, into other products at domestic processing facilities.''; and

(4) by adding at the end the following:

''(11) VIOLATION.—The term 'violation' means a violation of this Act (including a regulation issued to implement this Act) with regard to a course of action, including—

''(A) in the case of a violation by the original purchaser of unprocessed timber, an act or omission with respect to a single timber sale; and

''(B) in the case of a violation by a subsequent purchaser of the timber, an act or omission with respect to an operation at a particular processing facility or log yard.''.

SEC. 5. REGULATIONS.—Section 495(a) of the Forest Resources Conservation and Shortage Relief Act of 1990 (16 U.S.C. 620f(a)) is amended—

(1) by striking ''The Secretaries'' and inserting the following:

''(1) AGRICULTURE AND INTERIOR.—The Secretaries'';

(2) by striking ''The Secretary of Commerce'' and inserting the following:

''(2) COMMERCE.—The Secretary of Commerce''; and

(3) by striking the last sentence and inserting the following:

''(3) DEADLINE.—

''(A) IN GENERAL.—Except as otherwise provided in this title, regulations and guidelines required under this subsection shall be issued not later than June 1, 1998.

''(B) INTERIM REGULATIONS AND GUIDELINES.—The regulations and guidelines issued under this title that were in effect on the date of enactment of this paragraph shall remain in effect until new regulations and guidelines are issued under subparagraph (A).

''(4) PAINTING AND BRANDING.—

''(A) IN GENERAL.—The Secretary concerned shall issue regulations that impose reasonable painting, branding, or other forms of marking or tracking requirements on unprocessed timber if—

''(i) the benefits of the requirements outweigh the cost of complying with the requirements; and

''(ii) the Secretary determines that, without the requirements, it is likely that the unprocessed timber—

''(I) would be exported in violation of this title; or

''(II) if the unprocessed timber originated from Federal lands, would be substituted for unprocessed timber originating from private lands west of the 100th Meridian in the contiguous 48 States in violation of this title.

''(B) MINIMUM SIZE.—The Secretary concerned shall not impose painting, branding, or other forms of marking or tracking requirements on—

''(i) the face of a log that is less than 7 inches in diameter; or

''(ii) unprocessed timber that is less than 8 feet in length or less than ⅓ sound wood.

''(C) WAIVERS.—

''(i) IN GENERAL.—The Secretary concerned may waive log painting and branding requirements—

''(I) for a geographic area, if the Secretary determines that the risk of the unprocessed timber being exported from the area or used in substitution is low;

''(II) with respect to unprocessed timber originating from private lands located within an approved sourcing area for a person who certifies that the timber will be processed at a specific domestic processing facility to the extent that the processing does occur; or

''(III) as part of a log yard agreement that is consistent with the purposes of the export and substitution restrictions imposed under this title.

''(ii) REVIEW AND TERMINATION OF WAIVERS.—A waiver granted under clause (i)—

''(I) shall, to the maximum extent practicable, be reviewed once a year; and

''(II) shall remain effective until terminated by the Secretary.

''(D) FACTORS.—In making a determination under this paragraph, the Secretary concerned shall consider—

''(i) the risk of unprocessed timber of that species, grade, and size being exported or used in substitution;

''(ii) the location of the unprocessed timber and the effect of the location on its being exported or used in substitution;

''(iii) the history of the person involved with respect to compliance with log painting and branding requirements; and

''(iv) any other factor that is relevant to determining the likelihood of the unprocessed timber being exported or used in substitution.

''(5) REPORTING.—

''(A) IN GENERAL.—Subject to subparagraph (B), the Secretary concerned shall issue regulations that impose reasonable documentation and reporting requirements if the benefits of the requirements outweigh the cost of complying with the requirements.

''(B) WAIVERS.—

''(i) IN GENERAL.—The Secretary concerned may waive documentation and reporting requirements for a person if—

''(I) an audit of the records of the facility of the person reveals substantial compliance with all notice, reporting, painting, and branding requirements during the preceding year; or

''(II) the person transferring the unprocessed timber and the person processing the unprocessed timber enter into an advance agreement with the Secretary concerned regarding the disposition of the unprocessed timber by domestic processing.

''(ii) REVIEW AND TERMINATION OF WAIVERS.—A waiver granted under clause (i)—

''(I) shall, to the maximum extent practicable, be reviewed once a year; and

''(II) shall remain effective until terminated by the Secretary.''.

This Act may be cited as the ''Department of the Interior and Related Agencies Appropriations Act, 1998''.

PRIVILEGES OF THE FLOOR

Mr. GORTON. Mr. President, I ask unanimous consent that Bruce Evans, Ginny James, Anne McInerney, Hank Kashdan, and Martin Delgado of the committee staff be granted floor privileges for the duration of the debate on the Interior appropriations bill.

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

Mr. GORTON. Mr. President, before I begin my opening statement on this bill, I ask unanimous consent that the Senator from Nevada [Mr. BRYAN] be heard in order to introduce a bill and briefly to discuss it.

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

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. BRYAN. I thank the Chair.

(The remarks of Mr. BRYAN pertaining to the introduction of S. 1163 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Mr. President, I am pleased, together with my colleague from West Virginia, Senator BYRD, to bring before the Senate the fiscal year 1998 Interior and related agencies appropriations bill.

This bill provides $13.755 billion in net budget authority for the agencies and programs under the jurisdiction of the Interior subcommittee—a reduction of $46 million from the administration's amended budget request. In spite

of this reduction, I believe that this bill protects the high priorities of the administration, while also reflecting the priorities of this body.

The Interior bill, Mr. President, is a fascinating mix of 91 appropriations accounts covering more than 40 individual bureaus in four different Cabinet Departments and numerous independent agencies.

When I first became chairman of the subcommittee, I asked the staff to break down the bill into its major components so that I could understand better the competing demands within the bill. What we came up with was this chart behind me, Mr. President.

The chart breaks this bill into six functional categories—land management programs, Indian programs, science and minerals programs, energy programs, cultural programs, and the operation of the Interior Department office itself.

Though many of the individual programs within these categories are small in simple dollar terms, most of them have direct and tangible impacts on the lives of average Americans. As such, they tend to have vocal constituencies.

You will see, Mr. President, that within each of these six major functions, we have shown some of the breakdowns. The largest amount of money goes into land management programs. Those programs, in turn, fall into two separate departments. As the Forest Service, the largest single one of these programs, is within the Department of Agriculture, the others are within the Department of the Interior. They are in green on the left side of this chart. The second largest, by all odds, of the elements that are in this bill are Indian programs, primarily the Indian Health Service, and the general programs of the Bureau of Indian Affairs. Smaller amounts fall within the science and minerals programs. The most significant there is the United States Geological Survey. Energy programs within the purview of that Department include fossil energy research and development and energy conservation research and development.

Finally, the cultural programs which may well occupy more of the passionate debate time on this floor than any of the others, include museums and the two national endowments.

Finally, the very small graph line on the right is for the operation of the Department of Interior itself. An indication of how vocal the constituencies for this bill are is the fact that we on the subcommittee received more than 1,800 individual requests from Senators. Mr. President, 100 Senators and 1,800 requests for items in the Interior bill, the vast majority of which were for additions to the President's budget request. Within a subcommittee allocation that is actually somewhat smaller than the President's request, it has obviously been impossible to satisfy more than a fraction of these requests while still pressuring the ongoing base programs of the individual agencies shown in that chart.

So the task of putting together the fiscal year 1998 bill was complicated by the completion of the balanced budget agreement.

First, I need to report something that I have said frequently on the floor that I am a strong supporter of that agreement, from the very beginning of negotiations through the deliberations of the Budget Committee, through its final passage and implementation. I also recognize that the agreement makes available more discretionary spending for the Interior bill than I think we would have had in its absence.

That said, the agreement explicitly provided that four programs in the Interior bill be funded at the request level that the President made for the budget: The operation of the National Park System, the Park Service land acquisition program and State assistance, the restoration of the Everglades, and tribal priority allocations within the Bureau of Indian Affairs.

In the absence of a budget agreement I would only be honest to say I would not have recommended that all of these programs be funded at the budget request level. Personally, I believe there are other programs covered by the bill that are of at least that degree of priority or of a higher priority. Even so, the bill before you does fund these programs at levels consistent with the budget agreement. Having reached the agreement, having voted for the agreement in principle, Mr. President, it seems appropriate to me that we keep the promises that were included within it. I intend to do so to the best of my ability. Nevertheless, the effect of protecting these programs is that there was less funding available for other agencies and activities funded in the bill.

The budget agreement also created a $700 million reserve fund for priority land acquisitions. That amount has been included in the bill and is in addition to the $242 million provided for specific land acquisition projects in the regular acquisition accounts.

The budget agreement made no provision for the carrying costs of the lands to be acquired with the $700 million, nor for the payments in lieu of taxes that likely must be paid on these lands. While I believe that the $700 million might better be spent reducing the huge maintenance backlogs that already exist on Federal lands, essentially taking care of what we already have, my strong support for the budget agreement compelled me to include the $700 million in this bill. The House did not do so. Knowing how strongly Chairman REGULA feels about this issue, I anticipate our discussion in conference on the subject will be a lively one, to say the least.

Of the $700 million provided for land acquisition in title V, $250 million is set aside for the acquisition of the Headwaters Forest in California and $65 million is set aside for the acquisition of the New World Mine in Montana. Both of these appropriations remain subject to enactment of specific authorizing legislation. I have included the authorizing clause due to the magnitude of these two acquisitions, the complex structure of the acquisition agreement, and the fact that the agreements themselves were struck with very little congressional oversight or involvement. The Senator from Alaska [Mr. MURKOWSKI], among others, has expressed to me a number of serious concerns and questions about each of these acquisitions. As chairman of the relevant authorizing committee, it is appropriate that he be given the opportunity to have his questions answered by the administration. I am confident he will work in good faith to draft appropriate authorizing legislation, and I understand that he intends to hold a hearing on this issue in the near future.

The administration and many Members on the other side of the aisle wish to avoid the authorizing process entirely. The House of Representatives, on the other hand, made no such appropriation at all.

It seems to me where we stand in this bill for the purposes of debating this bill here in the Senate, we are at the right stage. We should appropriate the $700 million. We should allow the authorizing committee to do its work on these two expensive, complicated, and vitally important acquisitions.

Of the $700 million, an additional $100 million is provided specifically for the ''stateside'' grant program. As some of my colleagues may be aware, this is a program that was essentially terminated by the Appropriations Committee in the fiscal year 1996 bill. The Interior subcommittee's allocation was cut sharply that year and it was simply not possible to continue the stateside program while protecting the core Federal programs included in the bill. Furthermore, I suspect that continued funding constraints and the growing cost of maintaining Federal land and facilities make it unlikely that the stateside program will be resurrected in the context of any annual appropriations bill in the near future.

I hope this one-time appropriation of $100 million, to be allocated over a 4-year period, will enable the authorizing committee to identify a permanent funding source for that stateside program.

The remaining $285 million provided in title V of the bill is for Federal acquisition projects. The specific acquisition projects to be funded would be determined through discussions between Congress and the administration but no funds would be available until the project list is approved by the House and Senate Appropriations Committees. This process will enable us to target these funds for acquisitions that protect the most critically threatened resources and that reduce the cost of

lands management by eliminating problematic inholdings. I do not intend to use these funds to create new parks, forests or refuges.

Now, for the land management agencies themselves, the bill includes a number of positive features. For the National Park Service, the bill fully funds the administration's budget request for operation of the National Park System. This results in a 1 percent across-the-board funding increase for all park units. In addition, the bill includes a $24.8 million increase for special needs parks, an increase of $8.1 million over the budget request. These funds will be used to staff new parks, address critical operating shortfalls at park units with high visitation and protect threatened park resources.

For the Fish and Wildlife Service, the bill includes an increase of $33.2 million over the fiscal year 1997 level for the operation and maintenance of our Nation's fish and wildlife refuges. This amounts to a $20 million increase over the budget request. The increase will enable the service to make a dent in its growing maintenance backlog and to address critical operating shortfalls at selected refuges.

The bill provides $1.135 billion for the Bureau of Land Management, an increase of more than $40 million over the comparable fiscal year 1997 funding level. The amount provided includes increases over fiscal year 1997 of $12.5 million for wildland fire preparedness, and $18.2 for fire operations and for payments in lieu of taxes.

Total funding for the Forest Service is $2.495 billion, an increase of $133 million above the comparable fiscal year 1997 enacted amount. Funds have been provided to produce 3.8 billion board feet of timber, consisting of 2.525 billion board feet from ''green'' sales, and 1.275 billion board feet from salvage. The funding provided also includes a $33.4 million increase over the administration's request for forest health-related programs, including $21 million to reduce the severe potential for catastrophic fire on our national forest lands. Through language in the bill and report, the committee has taken steps to eliminate needless duplicate planning processes, and to increase Forest Service accountability for land management planning and implementation of the Columbia Basin ecosystem assessment and other ecoregion assessments.

Within the area of programs for Native Americans, the bill provides $2.1 billion for the Indian Health Service. This funding level is $72.7 million over the fiscal year 1997 level and 4.7 million over the President's request. The committee's recommendation includes $35 million for uncontrollable fixed costs related largely to hospital and clinic personnel, an increase of $15 million over the budget request. This increase will allow the Indian health service to maintain current levels of service.

As I already noted, it fully funds the President's request for tribal priority allocations at $757.4 million, consistent with the budget agreement. This represents an increase of $76.5 million over fiscal year 1997 levels. Tribal priority allocations now make up 49 percent of the bureau's operating budget.

Within those tribal priority allocations, approximately 30 percent is distributed by formula based on tribes meeting criteria for the following programs: The Indian Child Welfare Act, new tribes, Johnson O'Malley education assistance, housing improvement, road maintenance, contract support, and welfare assistance.

The committee has included report language directing the continued allocation of these funds based on qualification with specific criteria.

The committee has also included language in section 118 of the bill that directs the Bureau of Indian affairs to develop and present to the Congress by January 1, 1998, its recommendations for the allocation of the tribal priority allocations funding based on tribal economic wealth and need. Currently, TPA funds are distributed to the tribes based on a historical methodology dating to the 1930's when we had many fewer recognized tribes and when circumstances were very much different for both the tribes and the Federal budget. This old funding plan was further corrupted in the 1960's through the 1980's when the base TPA funds for certain tribes were increased significantly. This provision and a revised version that will be offered as an amendment will be the subject of extensive debate during the consideration of the bill unless agreement on the provision can be reached, an agreement which now seems to be within the range of possibility.

It is, however, based on the very simple premise in an area of severe fiscal constraints, the distribution of scarce funds for tribal governments should be based upon an objective assessment of relative need, not the political power of individual tribes or the arbitrary accumulation of individual funding decisions over past years.

The committee has included language in section 120 of the bill pursuant to which tribes that receive tribal priority allocation funding for this fiscal year must waive a claim of immunity, be subject to the jurisdiction of the U.S. courts, and grant original jurisdiction of all civil actions involving the tribe to U.S. district courts. This provision will also be the subject of extensive and sometimes complex debate during the consideration of the bill. At its core, section 120 is an attempt to preserve the right of all Americans to have their grievances heard and decided in neutral courts.

The Interior bill continues the Federal investment in key energy research and development programs. Fossil energy research and development is funded at $363.9 million, comparable to the fiscal year 1997 enacted level. Increases above the budget request are provided to sustain critical technology development programs intended to produce environmental benefits while improving energy efficiency.

Mr. President, $627.4 million is provided for energy conservation programs, an increase of $58 million over the fiscal year 1997 level. Increases over current year levels include $17 million for transportation programs, $20 million for building research and development, and $16 million for industry programs. The bill provides $129 million for the weatherization program and $31.1 million for the State grant program, respective increases of $8 million and $2.1 million over current year levels.

The bill does include a sale of $207.5 million worth of oil from the Strategic Petroleum Reserve to finance operation of that reserve.

Though I had hoped not to sell oil to finance reserve operations in fiscal year 1998, the constraints of the subcommittee's 602(b) allocation, the precedent set in the President's budget request, and the funding expectations raised by House action made it impossible to avoid the sale. While I remain open to alternatives to oil sales, it is with the recognition that any such alternative will likely have an adverse impact on other programs funded in this bill.

Within the grouping of programs that I have identified as cultural lies the one agency that probably receives more attention per appropriated dollar than any other funded in this bill—the National Endowments for the Arts. The bill reported by the committee provides just over $100 million for the NEA, roughly the same as the fiscal year 1997 level. The fact that the committee has chosen to fund the NEA, which the House did not do, reflects the overwhelming support that the agency enjoys among committee members, both Republican and Democrat. Nevertheless, I anticipate a spirited debate about the future of the agency as we proceed with consideration of this bill, and when we go to conference with the House.

Mr. President, putting this legislation together has been a tremendous challenge. While the fiscal constraints under which the subcommittee must operate make it impossible to please everyone, I do believe this bill represents a fair balance between the priorities of the Members of this body—both Republican and Democrat—and the priorities of the administration. I truly hope to have the support of my colleagues in voting for final passage, as well as their consideration on any amendments that may be offered during debate on the bill.

Finally, I want to express my gratitude to the staff for their hard work on this bill. Bruce Evans, Ginny James, Anne McInerney, Martin Delgado, and Kevin Johnson of the subcommittee staff have worked many long hours to put this bill together, and I have greatly appreciated their advice, counsel, and perseverance. Hank Kashdan—our

detailee from the Forest Service—has also been a great help, and we will be sorry to see him go at the end of the year. I also want to thank Chuck Berwick and Nina Nguyen of my personal staff for all their help on a number of critical issues in this bill. On Senator BYRD's staff, it has been a continued pleasure to work with Sue Masica, without whose expertise and institutional knowledge this bill would have been a lesser product. I also want to thank Carole Geagley of Senator BYRD's staff, as well as Lisa Mendelson who worked with Senator BYRD's staff as a detailee from the Park Service. I would be remiss in not extending my thanks to the full committee staff for their help, cooperation, and guidance, particularly the majority and minority staff directors, Steve Cortese and Jim English.

With that, I will defer to Senator BYRD. Before doing that, I want to say publicly once again how much I have learned, working as subcommittee chairman, from his vast experience, his guidance and, perhaps even more significant, in the last few years his personal friendship. His technical knowledge of the appropriations process, his appreciation for its nuances, and his respect for the entire Senate have been invaluable to me both in producing the bill and, I hope, in becoming a better Senator. At the same time, his advocacy on behalf of his colleagues has been invaluable to many on that side of the aisle and, I think I can say, to this side of the aisle as well. It has been a wonderful partnership. I hope we can continue it for a long time to come.

PRIVILEGE OF THE FLOOR

Mr. BYRD. Mr. President, I ask unanimous consent that the privilege of the floor be granted to Dr. Robert M. Simon, on detail from the Department of Energy to my staff, during the pendency of H.R. 2107.

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

The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I speak today in support of the fiscal year 1998 Interior and related agencies appropriations bill. This is a bill that is very important to the continued protection and management of our Nation's natural resources, to our energy future, to the well-being of our Indian population, and to the cultural and historical heritage of our country. I hope the Senate will move quickly in its consideration of this bill. If there are amendments—and I am sure there will be some—I encourage Senators to come to the floor and let us have the debate and then vote on those matters that are controversial. The start of the fiscal year is less than 3 weeks away, and we still face a difficult conference with the House.

It has been my high privilege to serve as the ranking member at the side of our very able chairman, the senior Senator from Washington [Mr. GORTON]. He is an absolute master of the details of the Interior bill. He is a student, and a good one, of much of the history that we protect in this bill, and he is a very fair arbiter of the competing demands that fall within the subcommittee's jurisdiction. This bill was put together in a very bipartisan manner, and it is responsive to priorities identified by many Senators, by the administration, by the public, and by the agencies that are charged with carrying out the directions provided in the bill.

Mr. President, the reach of the programs in the Interior bill is vast, and not much of the funding provided in this bill is spent here in Washington. Rather, the dollars that we are considering today will flow out to more than 370 national park units, over 500 national wildlife refuges, 121 national forests, more than 435 Indian hospitals and clinics, 16 different museums of the Smithsonian Institution, and to countless other locations where the research and technology development supported by this bill occurs.

So these funds will reach from the northernmost point in Alaska to the southernmost tip of Florida and from the Outer Banks of North Carolina to the islands in the western Pacific.

The extent to which this bill makes its presence known in each State is reflected in the number of requests that Senator GORTON and I receive for project funding each year. While no one receives every item he or she requests, I believe that Senator GORTON has done an excellent job of trying to accommodate high-priority items within the allocation assigned to this subcommittee. This bill contains approximately $13 billion in funding for the base programs, as well as an additional $700 million for priority land acquisitions and exchanges. This bill is at its allocation figure, so any additional funding sought by Senators will need to be offset.

Senator GORTON has summarized in a very detailed and clear way the items and the details of the bill thoroughly. So I will not attempt to cover them again.

While this bill provides needed resources to address protection of some of our most important national treasures, we still have a long way to go. The National Park Service has a $6 billion maintenance and rehabilitation backlog. The Forest Service, the Fish and Wildlife Service, the Bureau of Indian Affairs, the Smithsonian, and other agencies also have considerable backlogs. Continued pressures to balance the budget on the back of discretionary spending will further impede our efforts to provide the resources necessary to protect the wonders with which we have been entrusted.

For all of the pride that we take in our National Park System, it is also crumbling before us. Visitors flock to these national treasures every year—not only American visitors and their families, but increasingly, visitors from other countries. They come to partake of the historic, the cultural, and the scenic resources that have been so carefully preserved and entrusted to the National Park Service.

Mr. President, as a reflection of our infrastructure and restoration projects, this bill takes into account the needs. And as a reflection of the patriotism and commitment to future generations, we should be doing more to preserve and to protect these wondrous resources.

Innovative fee structures, enhanced partnership efforts, and expanded use of volunteers—all of which are supported by this bill—are not the sole solution to the needs of our national parks. Rather, we must commit funds to allow major infrastructure and restoration projects to proceed. When the house is crumbling, we must tend to the foundations and not just make minor cosmetic repairs.

Lastly, Mr. President, I extend a word of appreciation to the staff that have assisted the chairman and me in our work on this bill. They work as a team, and they serve both of us, as well as the full Senate, in a very effective and dedicated manner. They have taken years to acquire this expertise, and it is a vast benefit to Senators and to the people who research. On the majority side, the staff members, I believe, have already been mentioned by the distinguished chairman of the subcommittee, as well as on my side of the aisle, which he kindly referred to. This team works under the tutelage of the staff directors of the full committee—Steve Cortese for the majority and Jim English for the minority.

This is a good bill, Mr. President, and I urge the Senate to complete its action promptly.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. Mr. President, I thank the managers of the bill, particularly my good friend from Washington.

I have good news that an amendment that I had proposed to offer I will not have to offer on this bill.

On behalf of the people of Seneca, MO, and really people all across southwest Missouri, I, along with my colleagues Senator ASHCROFT and Congressman ROY BLUNT, have been fighting against an effort by an Oklahoma Indian tribe, the Eastern Shawnee, to move into southwest Missouri and establish a gambling casino in Seneca.

In truth, it is a New Jersey gaming operation that is behind this operation. They have claimed that they provided $25 million to the tribe because they felt that a gambling casino in the heart of the family entertainment vacation area of southwest Missouri would be extremely profitable for the corporation and its shareholders.

Over the last several months, I have presented to the Secretary of the Interior what I thought were good legal arguments that the tribe is not entitled to use an exception in the statute that would permit them automatically to move across the border from Oklahoma into Missouri.

The people of southwest Missouri finally have some good news. Last night Secretary Babbitt called me to say that the tribe cannot automatically move across the border and build a casino in Missouri. This means that other tribes with land bordering on our State will not be able to come in. They would have to go through the process of getting approval of the Governor and support of the local residents.

I think this is a huge victory for the overwhelming majority of local residents who are concerned that gambling would destroy the family environment and the quality of life for which southwest Missouri is so well known.

I assure my constituents and my colleagues that I intend to continue to fight to ensure that the entire State is protected from the invasion of unwanted gambling. I assure those people who are behind the efforts, the gambling interests, if they find or think they find another loophole, I will do my best to close it. So, Mr. President, more authorizing legislation may well be needed in this.

I express my thanks to the Secretary of the Interior, who has advised me orally, although I have not seen the written opinion, that the tribe does not qualify for the exception, and under the circumstances that avenue is no longer open to bring a gambling casino into Seneca, MO.

Mr. President, I thank the Chair and yield the floor.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. Mr. President, I thank the Chair.

Mr. President, later during the Senate's consideration of this bill, the Interior appropriations bill, there will be, it is my understanding, a rider offered by Senator BRYAN of Nevada. That rider would reduce the Forest Service road construction by $10 million, roughly 20 percent. It would eliminate the Forest Service's Purchaser Credit Road Construction Program and modify the formula for receipt-sharing for Forest Service receipts with the counties.

Mr. President, at the appropriate time, I intend to rise in opposition to the amendment and vote against it. I encourage my colleagues to do likewise. But I wanted to share a brief perspective with my colleagues from the standpoint of the chairman of the authorizing committee with jurisdiction over these matters.

The Bryan amendment will follow hard on the heels of a similar amendment which was offered in the House by Congressman KENNEDY and Congressman PORTER in July. That amendment precipitated, as a consequence, a very intense debate in which numerous sets of facts were presented to the House and some statements were made that were not necessarily factual.

Not surprisingly, the material that was brought into the debate, to a large degree, was in conflict. I have often believed that everyone is entitled to their own opinion, but that we ought to try to express our opinions using a commonly held set of facts. Oftentimes in this Chamber rhetoric will prevail over sound science simply because of the inability of the scientists to be heard and the scientists' willingness to stand behind their recommendations with their professional reputations.

Mr. President, both the Speaker and my House counterpart, the Congressman for Alaska, Congressman YOUNG, as chairman of the House Resources Committee, agree with this proposition. As a consequence, today Congressman YOUNG has sent me a letter, which I ask unanimous consent be printed in the RECORD.

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

HOUSE OF REPRESENTATIVES,
COMMITTEE ON RESOURCES,
Washington, DC, September 10, 1997.

Hon. FRANK MURKOWSKI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: During House consideration of the Interior Appropriations bill, the Kennedy-Porter amendment was offered to reduce the Forest Service timber roads program.

As you know, the reduction proposed in these amendments would devastate communities that rely on public land timber. It would gravely affect constituents in the West who work in the woods and the mills that supply the nation with wood for homes and other essential products. The implications to schools and children who depend on revenue sharing from timber receipts would also be substantial.

In speaking to many of the supporters of the Kennedy-Porter amendment to reduce funding for timber roads, they have explained that they supported the amendment in order to reduce costs and improve the environment. We too have real concerns with the skyrocketing cost of roads and timber sales. We have concluded that our goals may in fact be consistent. We believe that using collaboration and facts to address the problems that face the Forest Service we can reach a mutually beneficial solution.

We have offered to work cooperatively with interested House Members who hold different perspectives of forestry issues. We plan to do this in an inclusive way to properly address the real problems with these programs. This approach may be of interest to Senators grappling with the same problems that we grappled with in the House. To begin this process, we are planning an all day workshop involving as many interested Members of Congress as possible. If you wish to organize a group of Senators with an interest in this approach to the roads and cost issue, we invite you to do so and participate with us.

Sincerely,

DON YOUNG.
HELEN CHENOWETH.

Mr. MURKOWSKI. At the end of the House debate, many of the parties in opposition to one another found they simply shared a common goal. So after an extended debate, they came together and found what they could agree upon. They cared a great deal about the skyrocketing costs of the Forest Service program, without exception. They agreed then that collaboration and common understanding was necessary to address the problems in a way that would most likely achieve a mutual beneficial solution and it would be better to do that than simply replay the debate.

I think that is where we are today, Mr. President. We do not want to replay that debate that unfolded in the House and perhaps would unfold in this body.

So Congressman YOUNG has taken the lead from the Speaker of the House of Representatives to work with the conflict resolution center at George Mason University to schedule an all-day workshop with interested Congressmen to review these issues and find where some common ground and consensus could be found. And this is the issue in mind, the Forest Service's Purchaser Credit Road Construction Program.

Congressman YOUNG is inviting me and other interested Senators to the workshop. I will support the House effort and urge Members here to do likewise.

I do not believe that we can make sound public policy decisions when we disagree on basic facts associated with the issues that come to the Senate floor. This particular issue is ripe for that kind of exposure. So I will leave it to my colleagues later in the debate to come to their own judgment. We voted on this issue time and time again. It prevailed. But I believe the search for consensus, which has been initiated in the House, is something the Senate should adopt. I urge the consideration of my colleagues.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. GRAMS). Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I rise today to describe to my colleagues an amendment that it is my intention to offer on this appropriations bill. I intend to offer an amendment on behalf of myself, and Senator JOHNSON, from the State of South Dakota, who will be speaking on it when I finish. We are joined in this endeavor by a fairly large number of Senators: Senators CAMPBELL, DASCHLE, DOMENICI, INOUYE, BURNS, CONRAD, BINGAMAN, KOHL, WELLSTONE, MCCAIN, HARKIN, MURRAY, and LEVIN—a very distinguished and significant bipartisan group of Senators—and, as I mentioned previously, by Senator JOHNSON of South Dakota who has worked very closely with me on this amendment.

The amendment deals with tribal colleges. Before I describe the amendment I would like to make a comment about this subcommittee.

I am privileged to serve on the Senate Appropriations Committee. I consider it a distinct privilege to work with the Appropriations Committee, with the distinguished chairman, Senator STEVENS of Alaska, and the distinguished ranking member and former chairman, Senator BYRD of West Virginia. I also serve on the Interior subcommittee. It has been a pleasure to work with the Senator from Washington, Senator GORTON, whose leadership has been excellent. Although he is not at the present moment on the floor, I want him to know that the chart he brings to the floor to describe the breakdown of expenditures for this particular subcommittee is unique, and particularly useful. It is the only chart of its type that I know of that has been presented to Members, and it, more than almost any other approach, really gives us a good description of where we are spending the money in this subcommittee, how much we are spending, and the purpose of that spending.

So I say ''thank you'' to Senator GORTON, and to the ranking member of this subcommittee, Senator BYRD from West Virginia as well, for their leadership.

I would like to thank Bruce Evans, Anne McInerney, and Sue Masica, the staff on this subcommittee who have been very helpful in working with me on a wide range of issues.

The purpose of my offering an amendment today is to increase the funding for tribal colleges. And I want to describe why I think that is necessary.

Funding for tribally controlled colleges has not increased for 3 years. The President's budget requested $30,411,000 for these colleges—a $3 million increase over the last fiscal year. Both the House and the Senate bills have provided for a $1 million increase. And I would like to add the extra $2 million to bring funding up to the President's request in his budget recommendation. With the adoption of this amendment, the Senate will be at the budget request level. And that is still only half of the authorized level. Nonetheless, I think it is a very important step forward. This amendment will be offset by a pro rata reduction in travel for all agencies covered by this bill whose budgets exceed $20 million.

I can think of no more worthwhile investment in the future of native Americans than to invest in their education, particularly at the postsecondary level. All of us know that education is the key to success. We have 24 tribally controlled community colleges in this country that will be covered by this amendment. These colleges now serve more than 20,000 students.

There are five tribal colleges in North Dakota. And I have been pleased to play a role in trying to help them, all of which I have visited personally. I must say that they have made a significant difference in the lives of many, many students. These colleges have been successful in educating native American students by preserving the cultural environment in which these students are familiar while still providing them with the skills to be competitive in the society at large. I am proud of what they have accomplished. I think the extra $2 million will be very, very helpful. Unfortunately, tribal college appropriations have failed to keep pace with inflation, and actual per student funding has decreased by $317 while the student enrollment has increased by more than 230 percent over the last decade.

Mr. President, I would like just for a moment to describe a couple of people that I have either been privileged to meet or have heard about, who have demonstrated to me the importance of tribal colleges.

I was invited to speak at a tribal college commencement in North Dakota a few years ago. As they lined up in cap and gown, enormously proud of their achievement on their graduation day, I felt pride as well. I was visiting with several from the class, just kibitzing back and forth, and I asked, ''Who is the oldest of this graduating class?'' A woman raised her hand. She said, ''I am the oldest.'' She was, I believe, 41 years old. She was a single mother of four children, whose husband had left her. She had been employed as the janitor in that school at the tribal college cleaning the hallways, cleaning the lavatories, working long hours, and working hard to try to care for her children. As she was cleaning the lavatories and the hallways in this tribal college, she got a notion that she would very much like to graduate from this college.

So from the position of custodian or janitor at a tribal college, on this day when I was to speak at the graduation, she was wearing a cap and a gown, and at age 41 was getting a college degree. She had a smile so wide and such pride in her eyes because of what she had achieved for herself that no one will ever take away. It was, I think, Ben Franklin who suggested that if we empty our purse in our head, no one will ever been able to take it from us. And she knew that. But think of the odds to overcome—a single mother, raising four children, few skills, without much pay coming from the employment she then had. But on this day, she was a college graduate. I have never forgotten that smile. It was a remarkable achievement for her. But you will find that similar stories at all these tribal colleges. It changes people's lives.

I want to tell you about a friend of mine named Loretta De Long, a North Dakotan. I am privileged to know Loretta. She was a single Chippewa mother of two. She was wondering about her life and her future. And tribal colleges were established just about the time that she realized the key to her future could be a higher education.

After getting her high school diploma in a GED Program, this mother of two young children, the youngest of which was 6 weeks at the time, enrolled in one of the tribal colleges in North Dakota and that allowed for her to stay near her family and care for her children while she pursued her education. She said that ''going to college was like looking in the mirror and seeing myself for the first time that college seemed to tap a leadership quality that had been squashed by the outside world.''

Well, today Loretta De Long is Dr. De Long, Dr. Loretta De Long. The same woman, yes. She is also the Superintendent of Education for the Turtle Mountain Agency of the Turtle Mountain Tribe in North Dakota—another example of one person, but a success as a result of tribal colleges.

I don't know Myra Lefthand, but Myra Lefthand is a Montanan, and she is a Crow Indian from Montana. She and her daughter lived on clerk's pay and after 15 years in the same position on clerk's pay, not doing very well, she felt there were many positions that she saw in and around her job situation that she would like to have had but was never able to apply for them because she didn't have the education.

Here is what she said. She entered a tribal college to get an education. She said:

> For me, it meant a commitment to a goal. When I quit my job, I left behind what little security I had for myself and my daughter and I could no longer expect a paycheck, no matter how small. But while I was at the Little Bighorn College, I was encouraged daily in my pursuit of an associate degree in chemical dependency counseling by the dean of students, Punkie Anne Bollis, and by my sister, Clarice Deny. Between the two of them, a lot of hitchhiking, a lot of scrimping to make small savings go a long way, and the generosity of a sister who brought daily lunches to me, I was able to persist and to graduate from the Little Bighorn Tribal College with an AA degree.
>
> To all potential tribal college students, I say that going to get a professional degree is possible. With a little effort, hard study, support, prayers of family members, some financial aid, and the encouragement of some good teachers, an associate degree can be earned.

The reason I mention today Myra, Dr. De Long, or Wilma, the first woman I described, is that these are people whose lives have been changed by the ability to go to a tribal college, the ability to, on an Indian reservation, have the support of family and have the other support that is available and still enter college and get a degree and change their lives.

Now, what I am suggesting by this amendment is that we provide the additional $2 million which will bring the request up to the President's budget request. It is not a large amount of money by some Appropriations Committee standards, but it is an important amount of money that will I think invest in and benefit the lives of many Americans who now attend these tribal colleges, the enrollments of which are growing very rapidly but student funding has not kept pace.

My intention would be to have this amendment offered. I will offer it or it

can be offered on my behalf at the appropriate time after the committee amendments have been offered and I would like to work with the committee chair and the ranking member to see if we can find a way to adopt this amendment.

The chairman of the subcommittee is here now. He was not here when I described the compliments I have for the chart that he provided the Senate. He does that every year, and it is the only one I know that exists with these subcommittees. It is an awfully good way to describe to the Congress what we are spending and where we are spending it, and I want to say thanks for the Senator's excellent leadership, and thanks to the Senator from West Virginia for his leadership as well.

I know the Senator from South Dakota wishes to speak on this amendment, and I thank him very much for his strong work and support. I hope as we move along this amendment can be offered and hopefully we can agree to it.

Mr. President, I yield the floor.

Mr. JOHNSON addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. JOHNSON. Mr. President, I am pleased to join in the amendment of the Senator from North Dakota soon to be offered. I join Senator DORGAN in commending Chairman STEVENS for his work, certainly the Senator from West Virginia, Mr. BYRD, for his extraordinary leadership over the years on issues of this nature, and I look forward to working with the subcommittee chairman, Senator GORTON, to see what we can do to move this kind of amendment along.

Mr. President, I represent a State, the State of South Dakota, where we have nine Indian reservations, and where levels of poverty are extraordinary. I have worked very hard over the years both in the House of Representatives prior to my service in the Senate and now in the Senate on a wide range of initiatives designed to try to improve the circumstances of the native American citizens of our Nation, and of our State—water development initiatives and efforts on housing and health care and infrastructure improvements. I think all of them are important.

I have come to the conclusion after years of struggling and facing what sometimes appeared to me to be almost overwhelming circumstances of poverty, isolation, and difficulty, that if there is one area that deserves particular emphasis it needs to be education, and in this instance higher education for native American citizens of our country.

There was a time when I was, frankly, a bit skeptical, there was a time when I thought that perhaps we could just better utilize the existing State and other private institutions of higher education throughout our States. And we have made some successful efforts there in our Upward Bound Programs and others that have been of some help. But, frankly, the dropout rate and the lack of success was very high over the years. Now we have 25 tribal colleges serving between 20,000 to 25,000 native American students in 11 States around the country. We have four of them in the State of South Dakota, all of them accredited, all of them providing high-quality educational opportunities not just for native American students but for many non-Indian students as well who live in those extremely rural areas and who need to have this kind of access to educational opportunity.

We find that 56 percent of the American Indian population in our Nation is age 24 or younger. There is, demographically, a huge number of people of college age and younger; 90 percent of tribal college students qualify for need-based financial aid; 85 percent live in poverty; more than 50 percent are parents; 70 percent of these young people attending tribal colleges are female.

As I examine what has transpired over these years that we have developed a tribal college system, I see for the first time a whole generation of native Americans who are becoming teachers and nurses and managers and entrepreneurs; who are becoming role models in their communities where none before ever existed in terms of making their way in the larger economic system of our country. We have so many people who have lived all of their lives without an economic opportunity, without jobs being available, without anyone in their family having had the opportunity to work, who have not had the skills to make it in the larger economy of our Nation, and yet now finally we are seeing this forward edge of progress being made among native Americans. It is, more than anything else, because of this opportunity to secure the job skills, the training, the education, the brainpower that is required to succeed in America, that is required to succeed in the global economy in which we live today.

These colleges have made their way with very modest resources. In fact, even with the President's recommendation, we will spend only about half the dollars per student as is authorized under Federal law and far less than half of what other community colleges and other 4-year colleges in America use to educate each student. It is amazing that they have done as well as they have, that they have kept their accreditation, that they have kept the torch of hope alive for so many people and yet they have done it with far less per student than any other college in America.

The $2 million request that Senator DORGAN has put into his amendment will be divided among 25 colleges, and yet they have gone so far on so little that even this will be a very significant help for them, given the fact that they have now gone 3 years in a row without any upward adjustment in their funding at all, and despite the fact that enrollment numbers have increased significantly, that this really has become the steppingstone for success and is recognized as such in tribe after tribe throughout our country.

Mr. GORTON. Will the Senator from South Dakota yield?

Mr. JOHNSON. I will be pleased to yield to the Senator.

Mr. GORTON. On behalf of the majority leader, I am authorized to announce there will be no further rollcall votes today.

I thank the Senator.

Mr. JOHNSON. I thank the Senator. That is always a well received kind of announcement from the subcommittee chairman.

We find that our tribal colleges are unmatched in retention, in matriculation and job placement of American Indian students; 42 percent of these tribal college students transfer to 4-year institutions.

As we undertake the welfare reform initiatives at the Federal level and which the States are carrying through, it is all the more reason we need this opportunity, this steppingstone for people to develop the skills to in fact break out of what has been a relentless, an overwhelming cycle of poverty that so many native Americans have been caught up in. But again, it is not just native Americans who benefit from this.

I think of an instance of Wilma Sachtjen of Burke, SD, a displaced homemaker with a high school diploma. Wilma enrolled in the Sinte Gleska College in Rosebud, SD. A non-Indian, she was able to secure an education because of this program when no other opportunity could possibly have existed for her. She secured a bachelor's degree in human srvices. She has been employed in that field ever since. And so we have not just native Americans but the entire population of our States at many of these colleges, in most cases in remote areas, gaining opportunity.

The four colleges in South Dakota: the Cheyenne River Community College at Eagle Butte; the Oglala Lakota College at Kyle; the Sinte Gleska University at Rosebud, and Sisseton Wahpeton Community College at Sisseton, have all provided key educational opportunities for the population of our State. Many of our students also attend Sitting Bull College at the Standing Rock Reservation in North Dakota and many attend the United Tribes Technical College in Bismark as well.

So these colleges serve regional populations and not simply the tribal membership of their own reservations. So I cannot share with you in stronger terms the importance of continuing these colleges with adequate funding—certainly not extraordinary funding but adequate funding—to make sure that the ladder of opportunity remains in place. This is a newfound opportunity, a newfound ladder, really, that has only been with us for a relatively recent number of years. But I think it

is one of the most vital components we could possibly imagine to have if in fact we are going to break the cycle of poverty, create greater self-sufficiency, greater dignity, greater pride and greater opportunity for native American students.

I simply say, Mr. President, I cannot commend in stronger terms to my colleagues the importance of the passage of the Dorgan amendment and a continuation of a strong tribal college system in America.

Mr. DORGAN. Will the Senator from South Dakota yield for a question?

Mr. JOHNSON. I certainly yield to my colleague from North Dakota.

Mr. DORGAN. Mr. President, many people ask the question—if you have other colleges elsewhere in the country, why is there a need for tribal colleges? The answer to that, very simply, is that a substantial number of women are attending these colleges, especially women who are living in poverty, many of them well above the 18- or 20-year-old age when people are moving into college. And because tribal college students are older and female—often single mothers in their late twenties or thirties—the ability to go to a tribal college on the reservation itself allows them to access the support of families for child care. That support is often the difference between going to college and not going to college; being able to have an opportunity for a higher degree or not being able to have the opportunity. It is in evidence all across this country that these tribal colleges work, whereas in other circumstances those same people, who are now proud graduates, would probably not have had the opportunity to go on for an advanced education.

I appreciate very much the Senator's yielding. I would like to make one additional comment if I might, if the Senator will indulge me.

When I mentioned the thank you for so many staffers who worked with us on this amendment, I did not mention Mary Hawkins, who works with me on appropriations issues. Mary is going to be leaving the Hill at the end of this year. She has worked for a long while and does wonderful work. I am blessed having her work with me on appropriations issues, and I wanted to say thank you to her as well.

Mr. JOHNSON. Mr. President, reclaiming my time, I share the Senator's congratulations to Mary and the staff in general who have worked very hard on these and other key issues.

I think the Senator from North Dakota raises an important point relative to the unique importance of these institutions, given the kinds of circumstances that the students face where there is a great need for extended family, where transportation is difficult to secure, where the extended family is necessary to make education—oftentimes far more than 4 years, oftentimes 5 and 6 and 7 years—for nontraditional students to become a reality. Were it not for these institutions, there simply would not be this level of educational achievement, there would not be these role models being created, there would not be this kind of leadership created in Indian country today. So, again, I have to thank the Senator for his leadership and insights on this issue, and I yield my time.

Mr. CONRAD. Mr. President, tribal colleges play a crucial role in Indian country. An educated population is central to all successful economic and community development efforts. Tribal colleges serve young people preparing to enter the job market for the first time, dislocated workers learning new skills, and people seeking to move off welfare and onto a career path. These schools are at the heart of efforts to strengthen native American communities.

Tribal colleges serve more than 25,000 students nationwide. While meeting with tribal college students from North Dakota earlier this year, they told me how important it was for them to be able to attend schools near their homes, and how they planned to search for employment in their communities after graduation. Tribal colleges also strengthen Indian communities by increasing access to cultural resources, and by promoting the revitalization and preservation of American Indian and Alaska Native languages, visual and performance arts, and tribal history.

Last October, President Clinton signed an Executive order regarding tribal colleges and universities, designed to ensure that they have Federal resources committed to them on a continuing basis. This Executive order demonstrates a recognition of the central mission of tribal colleges and universities: making educational opportunities accessible to people of all ages in Indian country. To this end, it is important that we increase the Federal resources available to the tribal colleges. I am a cosponsor of the Dorgan amendment to increase the fiscal year 1998 appropriation for tribal colleges by $2 million, to the level of the administration's request, and I strongly urge its adoption.

The PRESIDING OFFICER. The Senator from Washington.

PRIVILEGE OF THE FLOOR

Mr. GORTON. Mr. President, I ask unanimous consent that the privilege of the floor be granted for the duration of the Interior bill to Angela Logomasini of Senator BROWNBACK's staff.

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

Mr. GORTON. Mr. President, I have a series of clarifications of the committee report that have been agreed to by Senator BYRD. I ask unanimous consent that they be printed in the RECORD, and I submit them for the RECORD.

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

CLARIFICATIONS TO COMMITTEE REPORT

Page 23 of the report indicates that funding for the aquatic nuisance species control program under the Fish and Wildlife Service is increased by $500,000 over the current year level. The actual increase provided is $1,000,000.

On page 119 of the report, the Bureau of Land Management is incorrectly listed as an unauthorized program pursuant to paragraph 7 of Rule XVI of the Standing Rules of the Senate. BLM was reauthorized through fiscal year 2002 in the 1996 omnibus parks bill.

The last paragraph on page 9 of the report addresses procedures that the Forest Service must follow in order to change its regional office structure. That paragraph should have included a requirement for the Forest Service to obtain consent from the Senate Energy and Natural Resources Committee.

On page 54, in the description of special programs and pooled overhead, the total is $72,726,000. The changes from the FY 1997 enacted level consist of the following:

an increase of $341,000 for fixed costs ($42,000 for fixed costs for UTTC are reflected as part of their total);

an increase of $2,000,000 for employee displacement;

an increase of $728,000 for UTTC, which includes $42,000 for fixed costs;

a decrease of $1,569,000 for trust services transferred to the office of special trustee;

a decrease of $2,801,000 for internal transfers; and

a decrease of $46,000 for other fixed costs (consisting of a decrease of $417,000 for workers compensation and an increase of $371,000 for unemployment compensation).

Mr. GORTON. Mr. President, I do want to respond to the thoughtful suggestions of the Senators from North Dakota and South Dakota while each of them is still on the floor.

I reflected, as they discussed the value of higher education, in this case to Indians, on the force of their argument. It certainly is possible that on some other elements of this bill relating to Indians that we may have some disagreements. But, certainly, if we speak about either a doctrine of self-determination or self-sufficiency, education makes a major contribution to the ability of an individual either to be self-determining or self-sufficient. To the extent that we can encourage education, greater sophistication and greater knowledge, obviously we ought to do so.

In this bill we have added $1 million to approximately a $27 million appropriation last year for the particular purpose to which they speak. That is $2 million less than the President's request, where the total allocation we have is some $46 million less than the President's request. We have, however, given almost a $700,000 increase to the United Tribes Technical College in the State of the Senator from North Dakota, which the President did not include in his budget, based essentially on the same philosophy that has been stated here by the two of them.

I can assure both Senators that we will see whether or not in some respect or another we can accommodate what seems to be a reasonable request, understanding that we have a lot of reasonable requests in a lot of areas of the bill. Also, I have to state that one reservation I have is to the sort of let's

just cut everything else proportionately without setting values. We worked as hard as we could on these matters, the others of which applied to all citizens of the United States. The degree of deferred maintenance in our national parks and national forests and other recreational facilities is literally measured in the billions of dollars. We tried to at least begin to work on that.

So, if, perhaps, the focus of where we find the $2 million could be more narrowly aimed, if they could discuss with their own constituents whether there are other Indian programs that could absorb such a shift, or some other thing of that sort, it will make it easier for us.

But I do want to assure both of them that I have heard what they have to say. With their philosophy about education, I entirely agree. And to the extent, in a bill where, as I said in my opening remarks, we had 1,800 requests from Members of the Senate, very few of which this Senator thinks in the abstract were not justified, by any means, I will try to the best of my ability to oblige. I am sure I speak for Senator BYRD when I make that statement.

Mr. DORGAN. Will the Senator yield just for a comment?

Mr. GORTON. Certainly.

Mr. DORGAN. Because the Senator mentioned United Tribes Technical College, I wanted to say how much I appreciate what the subcommittee did in that area. That is a unique institution which has been very successful and has not had a funding increase for a long, long while. Just last Saturday I was at the United Tribes Technical College, where they had one of the largest Indian powwows in this country. It is a wonderful cultural celebration, about as colorful and beautiful a celebration as you will see anywhere in the country. I can tell you the people at United Tribes Technical College were enormously grateful for what you have done in this appropriations bill for them. I think they understand that the increase you have provided is a recognition of excellence in education, an investment in human potential. They are very grateful for it. Because you mentioned that, I wanted to say how appreciative I was as well.

Mr. GORTON. Mr. President, I thank my colleague from North Dakota.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. REED. Mr. President, I ask unanimous consent to proceed as in morning business for the next 10 minutes.

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

Mr. REED. I thank the Chair.

(The remarks of Mr. REED pertaining to the introduction of S. 1169 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

AMENDMENT NO. 1132

(Purpose: To amend title 31, United States Code, to address the failure to appropriate sufficient funds to make full payments in lieu of taxes under chapter 69 of that title by exempting certain users of White Mountain National Forest from fees imposed in connection with the use)

Mr. GORTON. Mr. President, I send an amendment to the desk and ask unanimous consent that it be in order to be considered.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Washington [Mr. GORTON], for Mr. GREGG, proposes an amendment numbered 1132.

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

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

The amendment is as follows:

On page 126, line 16 insert after ''government'' the following: ''that lies in whole or in part within the White Mountain National Forest and is''

On page 126, line 19, strike ''recreational user fee'' and insert in lieu thereof. ''Demonstration Program Fee (parking permit or passport)''

On page 126, line 21–22, strike ''White Mountain National'' and ''that lies, in whole or in part, within those boundaries.''

Mr. GORTON. Mr. President, this is an agreed-to amendment between Senator BYRD and myself that is presented on behalf of the Senator from New Hampshire, Mr. GREGG. He has a special provision relating to certain uses of the White Mountain National Forest that are included in the bill. Technical errors were made in connection with that amendment, which added an unanticipated cost. These technical changes will cure that defect.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1132) was agreed to.

Mr. GORTON. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

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

Mr. President, I think I can announce I know of no further business relating to the Interior bill that is likely to come before the Senate this afternoon. But I do ask that any Senator who may wish to speak on the subject or offer an amendment on the subject report his or her intention to do so promptly.

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

The PRESIDING OFFICER (Mr. ABRAHAM). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. SANTORUM). Without objection, it is so ordered.

Mr. GORTON. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc, with the following exceptions: page 46, line 15 through page 47, line 25; page 52, line 16 through page 54, line 22; page 55, line 11 through page 56, line 2; page 96, line 12 through page 97, line 8; page 115, lines 1 through 22; page 123, line 9 through page 124, line 20; that the bill, as amended, be considered as original text for the purpose of further amendment, and that no points of order be waived by reason of this agreement.

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

The committee amendments were agreed to.

MORNING BUSINESS

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

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

NOMINATION OF GENERAL SHELTON TO BE CHAIRMAN OF THE JOINT CHIEFS OF STAFF

Mr. DASCHLE. Mr. President, I ask unanimous consent that a letter I received from Senator WYDEN be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, September 11, 1997.

Hon. THOMAS A. DASCHLE,
Democratic Leader,
The Capitol.

DEAR MR. LEADER: I am writing to notify you that if the leadership were to seek unanimous consent to proceed to the consideration of the nomination of General Shelton to be Chairman of the Joint Chiefs of Staff, I would object.

I have been frustrated in my attempts to obtain complete information regarding the crash of an HC–130 Air Force Reserve plane which killed 10 Oregonians in November of 1996. The widows and families of those servicemen deserve complete and accurate information about the cause of that accident. Until I am able to make progress in obtaining this information, I plan to maintain my objection.

I also ask unanimous consent that this notice be published in today's Congressional Record.

Sincerely,

RON WYDEN,
United States Senator.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that I be allowed to

speak in morning business for 15 minutes.

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

A BALANCED BUDGET

Mr. HOLLINGS. Mr. President, the greatest difficulty I had during the August break was convincing the various newpaper editors I visited while traveling the State, that the budget was not balanced. Everywhere I went, they said that Congress had done its job, producing the first balanced budget since Lyndon Johnson's back in 1968–69. And I said that it was totally out of the whole cloth.

Mr. President, I think of Mark Twain's famous observation. He said, ''The truth is such a precious thing, it should be used very sparingly.'' Unfortunately, our media friends have been caught up in the politics and with the consultants in the polls and the truth goes unreported.

I stated this on the floor when we debated the conference report to the budget resolution. I referred at that particular time to the report of Mr. KASICH from the committee of conference, submitted on June 4, 1997.

On page 4, I showed where, listed under ''Deficits,'' that under fiscal year 2002 a deficit of $108,300,000,000 was listed. It was listed with the exclusion of the Social Security surplus as required under section 13:301 of the Budget Act.

Under that particular act that we passed in 1990, 98 Senators voted for it and President George Bush signed it into law. It said that you cannot report in the Congress nor shall the President submit a budget that includes the Social Security trust funds in the calculation of the budget deficit. We got this enacted into law, and today it is totally disregarded.

I wish I could put in a criminal penalty. We could lock up the Congress. But the fact of the matter is, a criminal penalty for this already exists, the 1994 Pension Reform Act. This law was enacted to make sure that workers, with all this merger mania, could be sure that their pension funds would remain fiscally intact and safe from defraying company debt. Denny McLain, the famous Detroit pitcher, which the distinguished Chair should be very familiar with—is in jail today because he violated this law. Our great pitcher, McLain, was elected the chairman of a certain corporation where he used the pension fund to pay the debts. Earlier this year, Denny McLain was sentenced to 8 years in prison. Now, if you can find Denny, and what cell he is in, tell him he made a mistake. He should have run for the U.S. Senate instead of going into business, because instead of a prison term, what you get is a good Government award. The constant babble over the land in by all the talking heads, on the TV and the radio, is balance, balance, balance.

Well, heavens above, this is exactly what is occurring today in the U.S. Senate. Even Mr. KASICH said that his submission was not a balanced budget. All you have to do is read and you will see the increase in the debt between the years 2001 and 2002. In 2002, instead of a balanced budget—you have a $173.9 billion deficit.

So, I went to all the different newspaper editors, and I said, Wait until the Congressional Budget Office makes their estimate. It usually comes out in August but because of reconcilliation, it will come out in September this year. They finally submitted ''The Economic and Budget Outlook,'' in September 1997.

Mr. President, I ask unanimous consent that the table on page 34 be printed in the RECORD.

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

DEBT SUBJECT TO LIMIT

As part of the Balanced Budget Act of 1997, the Congress increased the statutory limit on federal debt from $5.5 trillion to $5.95 trillion. That amount should be sufficient until the summer of 2000. Even in the face of small deficits and budget surpluses, though, the debt subject to limit will continue to increase, thereby implying that the ceiling will have to be raised in the future.

Debt subject to limit far exceeds debt held by the public (a much more useful measure of what the government owes), mainly because it includes the holdings of the Social Security, Medicare, and other government trust funds. The Congressional Budget Office's projections of debt subject to limit through 2007 are presented below. Because the size of the trust fund surplus dwarfs the projected total budget surpluses after 2002, debt subject to limit continues to rise throughout the projection period.

BASELINE PROJECTIONS OF DEBT SUBJECT TO STATUTORY LIMIT

[By fiscal year, in billions of dollars]

	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Debt Subject to Limit, Start of Year	5,137	5,314	5,525	5,751	5,979	6,179	6,339	6,513	6,674	6,834	6,996
Changes:											
Deficit	34	57	52	48	36	−32	−13	−29	−36	−72	−86
Trust fund surplus	112	130	153	159	143	171	168	172	179	218	178
Other changes[1]	31	24	21	21	20	22	19	18	17	15	17
Total	177	210	226	228	199	161	174	161	160	162	110
Debt Subject to Limit, End of Year	5,314	5,525	5,751	5,979	6,179	6,339	6,513	6,674	6,834	6,996	7,106

[1] Primarily changes in Treasury cash balances, investments by government funds (such as the Bank Insurance Fund) that are not trust funds, and activity of the credit financing accounts.

Source: Congressional Budget Office.

Mr. HOLLINGS. Let us cite that table.

Here they have what they all like to call under the euphemism, a ''unified deficit.'' Here they just use the word ''deficit.'' They are very clever because they do not want to get in controversy with that particular section, 13:301. So CBO says: ''Deficit for 1997, $34 billion.'' This is what everybody is crowing about. But—but—Mr. President, trust fund surpluses. You see under the moneys there, and other changes, other short-falls there, that there is veritably $143 billion used, spent, in order to make the deficit appear to be only $34 billion. The truth is, and actually listed in this document now by CBO, is a deficit of $177 billion for fiscal 1997. And extrapolating it out for 1998, the actual deficit is $210 billion; 1999, $226 billion; the year 2000, $228 billion; the year 2001, $199 billion; and the year 2002, $161 billion.

There you are, Mr. President. The Congressional Budget Office has not estimated a balanced budget. And no one else in his right mind has estimated a balanced budget except for the political dissembling over the land, in the editorial columns, and in the news reports, ''balance, balance, balance,'' because what they've got up here this consultant thing to get our ''message, message, message'' out. If you say it enough, they will believe anything.

The truth is—the truth is—that we are going to expand the debt by over $1 trillion in the next 5 years, Mr. President. Now, let me say something about a soaring debt. When debt increases, interest increase. Everybody around here is saying, ''I'm cutting taxes, cutting taxes,'' when in essence they are increasing taxes. There are two kinds of taxes. One tax, of course, is like a school tax, where in my home State, South Carolina, all the sales tax goes to the public school system, or gasoline taxes which go to highway construction. Those are what you call win taxes—you win something for paying those taxes.

The second kind of tax is the waste tax. An example of this is the interest costs on the national debt. You do not win anything. It is absolute waste. This goes up, up, and away to the tune now in the last several years, of at least $15 billion, and it is going up more every day. The actual estimated amount for this particular fiscal year which will end in a couple of weeks' time, at the end of September, is $358 billion. That is the CBO estimate. That is almost $1

billion a day for nothing. I ask unanimous consent that ''Hollings Budget Realities'' be printed in the RECORD.

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

HOLLINGS' BUDGET REALITIES

[In billions of dollars]

President and year	U.S. Budget [1]	Borrowed Trust Funds	Unified Deficit With Trust Funds	Actual Deficit Without Trust Funds	National Debt	Annual Increases in Spending for Interest
Truman:						
1945	92.7	5.4	−47.6	.....	260.1	.....
1946	55.2	−5.0	−15.9	−10.9	271.0	.....
1947	34.5	−9.9	4.0	+13.9	257.1	.....
1948	29.8	6.7	11.8	+5.1	252.0	.....
1949	38.8	1.2	0.6	−0.6	252.6	.....
1950	42.6	1.2	−3.1	−4.3	256.9	.....
1951	45.5	4.5	6.1	+1.6	255.3	.....
1952	67.7	2.3	−1.5	−3.8	259.1	.....
1953	76.1	0.4	−6.5	−6.9	266.0	.....
Eisenhower:						
1954	70.9	3.6	−1.2	−4.8	270.8	.....
1955	68.4	0.6	−3.0	−3.6	274.4	.....
1956	70.6	2.2	3.9	+1.7	272.7	.....
1957	76.6	3.0	3.4	+0.4	272.3	.....
1958	82.4	4.6	−2.8	−7.4	279.7	.....
1959	92.1	−5.0	−12.8	−7.8	287.5	.....
1960	92.2	3.3	0.3	−3.0	290.5	.....
1961	97.7	−1.2	−3.3	−2.1	292.6	.....
Kennedy:						
1962	106.8	3.2	−7.1	−10.3	302.9	9.1
1963	111.3	2.6	−4.8	−7.4	310.3	9.9
Johnson:						
1964	118.5	−0.1	−5.9	−5.8	316.1	10.7
1965	118.2	4.8	−1.4	−6.2	322.3	11.3
1966	134.5	2.5	−3.7	−6.2	328.5	12.0
1967	157.5	3.3	−8.6	−11.9	340.4	13.4
1968	178.1	3.1	−25.2	−28.3	368.7	14.6
1969	183.6	0.3	3.2	+2.9	365.8	16.6
Nixon:						
1970	195.6	12.3	−2.8	−15.1	380.9	19.3
1971	210.2	4.3	−23.0	−27.3	408.2	21.0
1972	230.7	4.3	−23.4	−27.7	435.9	21.8
1973	245.7	15.5	−14.9	−30.4	466.3	24.2
1974	269.4	11.5	−6.1	−17.6	483.9	29.3
Ford:						
1975	332.3	4.8	−53.2	−58.0	541.9	32.7
1976	371.8	13.4	−73.7	−87.1	629.0	37.1
Carter:						
1977	409.2	23.7	−53.7	−77.4	706.4	41.9
1978	458.7	11.0	−59.2	−70.2	776.6	48.7
1979	503.5	12.2	−40.7	−52.9	829.5	59.9
1980	590.9	5.8	−73.8	−79.6	909.1	74.8
Reagan:						
1981	678.2	6.7	−79.0	−85.7	994.8	95.5
1982	745.8	14.5	−128.0	−142.5	1,137.3	117.2
1983	808.4	26.6	−207.8	−234.4	1,371.7	128.7
1984	851.8	7.6	−185.4	−193.0	1,564.7	153.9
1985	946.4	40.5	−212.3	−252.8	1,817.5	178.9
1986	990.3	81.9	−221.2	−303.1	2,120.6	190.3
1987	1,003.9	75.7	−149.8	−225.5	2,346.1	195.3
1988	1,064.1	100.0	−155.2	−255.2	2,601.3	214.1
Bush:						
1989	1,143.2	114.2	−152.5	−266.7	2,868.3	240.9
1990	1,252.7	117.4	−221.2	−338.6	3,206.6	264.7
1991	1,323.8	122.5	−269.4	−391.9	3,598.5	285.5
1992	1,380.9	113.2	−290.4	−403.6	4,002.1	292.3
Clinton:						
1993	1,408.2	94.3	−255.0	−349.3	4,351.4	292.5
1994	1,460.6	89.2	−203.1	−292.3	4,643.7	296.3
1995	1,514.6	113.4	−163.9	−277.3	4,921.0	332.4
1996	1,560.0	154.0	−107.0	−261.0	5,182.0	344.0
1997	1,612.0	143.0	−34.0	−177.0	5,359.0	358.0

[1] Outlays.

Note: Historical Tables, Budget of the U.S. Government FY 1998: Beginning in 1962 CBO's 1997 Economic and Budget Outlook.

Mr. HOLLINGS. When is this crowd going to wake up around here? The interest cost was less than $75 billion when Mr. Reagan came to town and promised to balance the budget in 1 year. We had less than $1 trillion debt. Now we have a $5.3 trillion debt—quadruple the debt since that time. We are spending about $283 billion more a year today in interest costs than that particular day 17 years ago.

Now, if I had that $283 billion, I would get all the highways built, I would get all the research at NIH, I would put in all the money at Head Start. With all of these amendments, we are spending the money but not getting the government. We are proving with this cut taxes, cut taxes, cut taxes that we are incompetent up here.

Now, Mr. President, I had hoped at that particular time, since the economy was going well and we have had lower deficits each year for the last 5 years under President Clinton, that we would stay the course, not have any tax cuts, not have any spending increases. But this hope was defeated.

Instead, Mr. President, we passed what? We passed a $52 billion increase in spending and cut the revenues $95 billion and call it balanced. How can you increase spending, lower your revenues, and get to a balanced budget? Of course, it is obvious—you cannot. That is why you have the $177 billion deficit this particular fiscal year and instead of a balanced budget in the year 2002, we have a $161 billion deficit.

Interestingly, this assumes that by the year 2000—you will have a deficit of $228 billion, an almost $70 billion decrease in a 2-year period. The cuts are back-loaded. That is the smoke and mirrors.

Everyone is talking about balance, talking about baby boomers, talking about Social Security, which is in the black and balanced. But we are not paying for defense, we are not paying for education, we are not paying for Senators' pay, we are not paying for Head Start, we are not paying for foreign aid, we are not paying for the general Government expenses, and we come around here and we say, ''Now what we need is tax cuts to buy the election next year.''

Mr. President, they have a big hearing going on about campaign financing. The biggest campaign finance violation is the Federal budget scam of a balanced budget and cutting taxes. We are

using this budget scam to reelect ourselves. This is what ought to be investigated. This is a public hearing. I hope C-SPAN is covering it. I hope everyone is listening right now, because this is how we buy the votes. I am not worried whether I get from a PAC contribution of $1,000 or $2,000 The country of Japan has over 100 lawyers here, paid over $113 million to lobby us, the Congress. I need not tell you that this is significantly more than the pay of the 535 Members of Congress. I am not worried about those things. What I am worried about is the campaign financing fraud scam that is going on on the floor of the national Congress. We're all running around here hollering, ''balance,'' and our good friends, the Concord Coalition, is yelling ''entitlements, entitlements.'' They have not yet faced the reality.

My friend, David Broder, says I have gotten to be a nuisance on this subject. I wonder why the truth has become a nuisance in Washington?

LABOR-HHS-EDUCATION SPENDING BILL FOR FY98

Mr. BINGAMAN. Mr. President, the fiscal year 1998 Labor-HHS-Education appropriations bill that was passed overwhelmingly by the Senate today contains several education and health provisions that I feel are especially important and have worked hard on to help improve the lives of people in New Mexico and nationwide.

The key health and education provisions include a plan to move control over the proposed new math and reading tests to an independent board, increased funding for education technology and technology training for teachers, first-time funding to help low-income students participate in the rigorous and cost saving academic program known as Advanced Placement, and funding for a Boarder Health Commission that I helped enact in 1994.

It is especially important to note that the United States Senate today approved $1 million in funding to implement the United States-Mexico Border Health Commission. The Commission, which has long been one of my priorities, is designed to help improve public health along the United States-Mexico border. I requested that the funds be included in the 1998 spending bill in a letter to Senate appropriators earlier in the year.

I led the fight to fund the Commission because I believe that we can't wait any longer to begin addressing the serious health problems along the border. They greatly affect people in nearby communities and in New Mexico. What's alarming is that many of these health problems—such as malaria and tuberculosis—can affect people nationwide. This appropriation represents the first time Federal funds have been earmarked specifically for implementation of the commission.

The funds would go to the commission to begin a comprehensive border health needs assessment followed by a coordinated medical response to border health problems. Each United States-border State would receive two federally appointed commissioners who would work with Mexico to design and coordinate programs to improve health, water resources, sewage treatment, vector control and air quality along the border. Because of the Senate's move today, we are inching closer to being able to directing medical help to our ailing border region.

The Senate has also now approved funding for several key education initiatives that have been some of my top priorities in this Congress.

Perhaps most notable is that the Senate approved $30 million to train teachers in the use of technology in the classroom. The funding will be used to implement the Technology for Teachers Act, new legislation that I authored earlier this year.

There is a tremendous effort underway to put computers in classrooms and hook schools across American into the Internet. But until now, the primary focus has been on obtaining equipment—not on training teachers to use it. We can't simply install a computer in the classroom and expect it to revolutionize education all by itself. These new resources represent the first time Federal funds have been set aside specifically for training new and current teachers in the use of education technology.

As a founding member of the Senate Education Technology Workforce, I am also proud that the Senate voted to double the funding for the Technology Literacy Challenge Fund, created by my 1994 Technology for Education Act. The fund would jump to $425 million in 1998 from $200 million in 1997. New Mexico's State Department of Education this year received $1.7 million from the Technology Literacy Challenge Fund, and awarded grants to 26 communities across the State. The 1998 funding would boost New Mexico's share to $3.55 million.

And finally, the Senate also approved $3 million in funding to increase the number of low-income students who participate in the rigorous Advanced Placement [AP] program in schools in New Mexico and across the country. I secured this funding in the 1998 Labor-HHS appropriations bill in order to broaden the reach of AP classes to all students—not just to those who attend more affluent schools or have definite plans to attend college. By promoting AP, we're promoting high-standards education in our schools without creating new Federal programs.

These are just a few of the most important elements of a bill that on the whole is very strong, I believe. However, I must note one part of the legislation that we are sending into conference with the House of Representatives, which is the Gorton amendment.

As part of this spending bill, the Senate narrowly approved—49 to 51—an amendment by Senator GORTON that would convert billions of dollars in critical Federal education dollars into unrestricted block grants that school districts could spend with few restrictions and little accountability. For reasons I would like to describe here, I strongly oppose the amendment and will push for its elimination from the final version of the 1998 Labor-HHS appropriations measure.

In essence, this amendment would eliminate much of the U.S. Department of Education—a radical and misguided effort that I had thought was abandoned in the face of tremendous public opposition over the last few years.

Specifically, this amendment block grants to local districts—not states—roughly $5.5 billion in annual funding for Federal education programs. The eliminated programs would include:

Funding for the new voluntary national tests for reading and math, which would help so many parents keep their schools accountable for preparing their students for a high-tech world;

Title 1, the roughly $7 billion program to help poor children improve their reading and math skills in the early grades;

The $425 million Technology for Education Act, which is already providing $1.7 million in education technology funding to 26 grantees around the state, and would rise to $3.5 million next year;

The $50 million Charter Schools program, which helps foster the creation of more new, independent public schools like the five that are up and running in New Mexico;

Goals 2000, which has provided millions of dollars to New Mexico as part of its effort to raise academic standards and achievement;

The School-to-Work Opportunities Act, which has given both local and statewide implementation grants to help improve training for students going straight into the workforce from high school;

Safe and Drug Free Schools, a program that sends Federal funds to the States and schools most affected by school violence in order to make them more orderly;

Teacher training funds called the Eisenhower program that are used in New Mexico to help upgrade the preparation of teachers in our classrooms; and

Bilingual and immigrant education programs, which also provide much-needed support for communities with large numbers of limited English proficient students.

In effect, this would create an unmonitored windfall for school districts that could be used for nearly any purpose—conceivably even raising administrative salaries, or building swimming pools and tennis courts. There would be no oversight or accountability—in fact, all of the limits on administrative costs and accountability measures that rely on State oversight and are already in Federal law would be eliminated by the amendment.

The Gorton amendment would also fully by-pass State education agencies that in New Mexico help coordinate and monitor programs. Some people think block-granting education funds might give local school districts more control or more funding. The reality is that if we block grant these programs and bypass the our entire State education network, we actually put a huge administrative burden on school districts that very few will be able to handle. And in fact, only about 6 percent of Federal funding is taken off the top by States for administrative and technical assistance. It simply isn't cost-efficient for small districts to provide the specialized training or diverse course offerings that can be provided economically at a state and regional level.

It's also entirely unclear how New Mexico would fare under such an arrangement—there is no real way of telling from the amendment, which proposes an entirely untried approach that has never really been debated before. Funding levels would basically be determined by having each individual district conduct a self-reported census on its own of all the school-aged children in the district, and then weighting each district's funding according to each State's average per capita income level. However it's not too hard to guess that we won't do nearly as well as some may think, since current formulas already awarding money directly to districts based on individual community need would be scrapped—and many communities would be left to fend for themselves.

For these reasons, it is my hope that this ill-conceived amendment will be dropped in conference, and left out of the final bill that is made into law. If necessary, I would likely join my colleague Senator DODD in filibustering the fiscal year 1998 appropriations bill if the Gorton amendment is kept in the final version.

THE CRISIS IN SIERRA LEONE

Mr. BIDEN. Mr. President, I rise today to bring to light recent events in Sierra Leone. This has been a challenging year for democracy on the African Continent, and no where has it been more seriously challenged than in this West African nation. On May 25, 1997, mutinous soldiers overthrew the democratically-elected government of President Ahmad Tejan Kabbah. Lawlessness reigns throughout the country, as jail doors throughout Sierra Leone have been thrown wide, and judges and lawyers who once worked to ensure the rule of law have been forced to flee the country for their lives.

Ironically, it was only a year and a half ago that Sierra Leone held its first multiparty elections in 30 years, resulting in the transfer of power from the military to the civilian government of President Kabbah. With the conclusion of Sierra Leone's 5-year civil war last November, Sierra Leone was hailed by many in Africa and the West as a model for other African nations. The bloody military coup d'état that ousted President Kabbah almost 4 months ago is not only an affront to the expressed will of the people of Sierra Leone, but is a direct challenge to the cause of democracy in Africa. I strongly condemn this deplorable action, and call upon the military to return power to the democratically-elected government.

Now, as a result of the spring coup, the Sierra Leone is largely isolated from the world. Foreign embassies have closed their doors. Foreign aid has been suspended. There is virtually no humanitarian assistance to speak of left in Sierra Leone. Every day that the military junta remains in power more men, women and children needlessly fall victim to senseless violence.

Meanwhile, the military junta continues its rapacious looting of the country, oblivious to the dire consequences of its actions. Freetown, the capital city, without electricity, sits in darkness. Schools are closed. Most doctors have fled the country and hospitals have been looted. Those who have not already fled the country face both a dwindling food supply and the military leaders' seemingly abject disregard for human life.

Mr. President, Sierra Leone's West African neighbors have courageously taken the lead in responding to this humanitarian crisis. Upon the outbreak of the coup, regional leaders quickly condemned the coup and imposed regional sanctions. At a recent meeting of West African heads of state those who called for the use of force to end the standoff were resisted, and it was resolved to strengthen the sanctions regime already in place.

I strongly commend this decision. Although attempts at negotiation with the junta in July were unsuccessful, I strongly believe that the successful road to peace and stability in Sierra Leone leads to the negotiating table instead of the battlefield. Sanctions must be given more time to pressure the military junta to give up its quixotic lust for power.

While the United States was among the first to condemn the coup, I urge our Government to continue to seek every opportunity to publicly support democracy in Sierra Leone. Those who would subvert the will of the people in Sierra Leone should have no illusion about the United States position.

The United Nations has already added its voice to international condemnation of the military junta in Freetown. Moreover, the Secretary-General has just appointed a special envoy to Sierra Leone in an attempt to resolve the crisis. I applaud these efforts. I urge the administration to use its influence at the United Nations to initiate a multilateral effort to severely restrict the military junta's ability to purchase arms and fuel. At the same time, I believe it is necessary to try to find a way to address the humanitarian needs of the innocent.

Mr. President, these are very troubled days for democracy in Africa. Although democracy is beginning to blossom in other parts of the world since the end of the cold war, it has yet to firmly take root in the fertile soil of many African nations.

Mr. President, as the rest of the world moves toward integration into the global economy, embracing democracy and liberal economic principles, we must not leave Africa behind. It is imperative that we who have fought for our own freedom, and who enjoy the fruits that democracy offer, continue to support others in their fight for the same. I thank the chair and yield the floor.

THE VERY BAD DEBT BOXSCORE

MR. HELMS. Mr. President, at the close of business yesterday, Wednesday, September 10, 1997, the Federal debt stood at $5,410,105,013,993.47. (Five trillion, four hundred ten billion, one hundred five million, thirteen thousand, nine hundred ninety-three dollars and forty-seven cents)

One year ago, September 10, 1996, the Federal debt stood at $5,217,211,000,000. (Five trillion, two hundred seventeen billion, two hundred eleven million)

Five years ago, September 10, 1992, the Federal debt stood at $4,035,342,000,000. (Four trillion, thirty-five billion, three hundred forty-two million)

Ten years ago, September 10, 1987, the Federal debt stood at $2,355,393,000,000. (Two trillion, three hundred fifty-five billion, three hundred ninety-three million)

Fifteen years ago, September 10, 1982, the Federal debt stood at $1,110,901,000,000 (One trillion, one hundred ten billion, nine hundred one million) which reflects a debt increase of more than $4 trillion—$4,299,204,013,993.47 (Four trillion, two hundred ninety-nine billion, two hundred four million, thirteen thousand, nine hundred ninety-three dollars and forty-seven cents) during the past 15 years.

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 12:03 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 1866. An act to continue favorable treatment for need-based educational aid under the antitrust laws.

The enrolled bill was signed subsequently by the President pro tempore [Mr. THURMOND].

MEASURES REFERRED

The following bills, previously received from the House of Representatives for the concurrence of the Senate, were read the first and second times by

unanimous consent and referred as indicated:

H.R. 28. An act to amend the Housing Act of 1949 to extend the loan guarantee program for multifamily rental housing in rural areas; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 103. An act to expedite State reviews of criminal records of applicants for private security officer employment, and for other purposes; to the Committee on the Judiciary.

The following concurrent resolutions, previously received from the House of Representatives for the concurrence of the Senate, were read the first and second times by unanimous consent and referred as indicated:

H. Con. Res. 105. Concurrent resolution expressing the sense of the Congress relating to the elections in Albania scheduled for June 29, 1997; to the Committee on Foreign Relations.

H. Con. Res. 133. Concurrent resolution expressing the sense of the Congress regarding the terrorist bombing in the Jerusalem market on July 30, 1997; to the Committee on Foreign Relations.

MEASURE PLACED ON THE CALENDAR

The following measure was read the second time and placed on the calendar:

S. 1160. A bill to provide for educational facilities improvement.

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 2937. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a rule entitled ''Business and Media Visas'' received on September 8, 1997; to the Committee on Foreign Relations.

EC 2938. A communication from the Acting General Counsel, Department of Energy, transmitting, pursuant to law, a rule received on August 28, 1997; to the Committee on Energy and Natural Resources.

EC 2939. A communication from the Assistant Secretary of Labor for Pension and Welfare Benefits, transmitting, pursuant to law, a rule entitled ''Class Exemption for Collective Investment Fund Conversion Transactions'' received on August 13, 1997; to the Committee on Labor and Human Resources.

EC 2940. A communication from the Deputy Executive Director and Chief Operating Officer, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, a rule entitled ''Allocation of Assets in Single-Employer Plans'' received on September 10, 1997; to the Committee on Labor and Human Resources.

EC 2941. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled ''Protecting Workers Exposed to Lead-based Paint Hazards''; to the Committee on Labor and Human Resources.

EC 2942. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Procedure 97–43; to the Committee on Finance.

EC 2943. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Ruling 97–39; to the Committee on Finance.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–226. A joint resolution adopted by the Legislature of the State of California; to the Committee on Appropriations.

ASSEMBLY JOINT RESOLUTION NO. 11

Whereas, Many of our senior citizens rely on the Congregate Nutrition Services under Subpart 1 (commencing with Section 3030e) of Part C of Subchapter 3 of Chapter 35 of Title 42 of the United States Code, the Older Americans Act, for their main source of nutrition; and

Whereas, Many of our senior citizens rely on the Home Delivered Nutrition Services under Subpart 2 (commencing with Section 3030f) of Part C of Subchapter 3 of Chapter 35 of Title 42 of the United States Code, the Older Americans Act, for their only source of nutrition; and

Whereas, In many cases, the delivery person may be the only person who sees the senior citizen daily, and that person also serves as a resource for other needs that the senior citizen may have; and

Whereas, Delivered meals to a home-bound senior citizen is very cost-effective, since nutrition is basic to maintaining health and life; and

Whereas, Without home-delivered meals to home-bound seniors, they are forced into higher levels of care and the residential and skilled nursing facilities that those seniors are moved to cost much more; and

Whereas, Most of the cost of care in residential homes and skilled nursing facilities are passed on to the state and the federal government; and

Whereas, The means by which lowest cost under which care may be provided is to maintain these senior citizens in their own homes; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to maintain current levels of funding of Congregate Nutrition Services under Subpart 1 (commencing with Section 3030e) of Part C of Subchapter 3 of Chapter 35 of Title 42 of the United States Code, and Home Delivered Nutrition Services under Subpart 2 (commencing with Section 3030f) of Subchapter 3 of Chapter 35 of Title 42 of the United States Code; and be it further

Resolved, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to index annual cost-of-living increases in funding for Congregate Nutrition Services and Home Delivered Nutrition Services; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

S. 360. A bill to require adoption of a management plan for the Hells Canyon National Recreation Area that allows appropriate use of motorized and nonmotorized river craft in the recreation area, and for other purposes (Rept. No. 105–78).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

S. 590. A bill to provide for a land exchange involving certain land within the Routt National Forest in the State of Colorado (Rept. No. 105–79).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 783. A bill to increase the accessibility of the Boundary Waters Canoe Area Wilderness, and for other purposes (Rept. No. 105–80).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. ROTH, from the Committee on Finance:

Olivia A. Golden, of the District of Columbia, to be Assistant Secretary for Family Support, Department of Health and Human Services.

Kenneth S. Apfel, of Maryland, to be Commissioner of Social Security for the term expiring January 19, 2001. (New Position)

Gary Gensler, of Maryland, to be an Assistant Secretary of the Treasury.

Nancy Killefer, of Florida, to be Chief Financial Officer, Department of the Treasury.

Nancy-Ann Minn Deparle, of Tennessee, to be Administrator of the Health Care Financing Administration.

David A. Lipton, of Massachusetts, to be an Under Secretary of the Treasury.

Timothy F. Geithner, of New York, to be a Deputy Under Secretary of the Treasury.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

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. 1162. A bill to amend the Controlled Substances Act and the Controlled Substances Import and Export Act with respect to penalties for powder cocaine and crack offenses; to the Committee on the Judiciary.

By Mr. BRYAN:

S. 1163. A bill to amend the Truth in Lending Act to prohibit the distribution of any negotiable check or other instrument with any solicitation to a consumer by a creditor to open an account under any consumer credit plan or to engage in any other credit transaction which is subject to that Act, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. ABRAHAM (for himself, Mr. FEINGOLD, Mr. HUTCHINSON, Mr. COVERDELL, Mr. DEWINE, Mr. ASHCROFT, Mr. BROWNBACK, Mr. MACK, and Mr. HELMS):

S. 1164. A bill to state a policy of the United States that engages the People's Republic of China in areas of mutual interest promotes human rights, religious freedom, and democracy in China, and enhances the national security interests of the United States with respect to China, and for other purposes; to the Committee on Foreign Relations.

By Mr. GRASSLEY:

S. 1165. A bill to apply rules regarding the conduct of meetings and record-keeping under the Federal Advisory Committee Act to the Social Security Advisory Board and for other purposes; to the Committee on Finance.

By Mr. CAMPBELL:

S. 1166. A bill to prevent Federal agencies from pursuing policies of unjustifiable nonacquiescence in, and relitigation of, precedents established in the Federal judicial circuits; to the Committee on the Judiciary.

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

S. 1167. A bill to amend the Tariff Act of 1930 to clarify the method for calculating cost of production for purposes of determining antidumping margins; to the Committee on Finance.

By Mr. LEVIN:

S. 1168. A bill for the relief of Retired Sergeant First Class James D. Benoit, Wan Sook Benoit, and the estate of David Benoit, and for other purposes; to the Committee on the Judiciary.

By Mr. REED:

S. 1169. A bill to establish professional development partnerships to improve the quality of America's teachers and the academic achievement of students in the classroom, and for other purposes; to the Committee on Labor and Human Resources.

By Ms. SNOWE:

S. 1170. A bill to establish a training voucher system, and for other purposes; to the Committee on Labor and Human Resources.

By Ms. MOSELEY-BRAUN:

S. 1171. A bill for the relief of Janina Altagracia Castillo-Rojas and her husband, Diogenes Patricio Rojas; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HOLLINGS (for himself and Mr. ABRAHAM):

S. Con. Res. 52. A concurrent resolution relating to maintaining the current standard behind the ''Made in USA'' label, in order to protect consumers and jobs in the United States; to the Committee on Commerce, Science, and Transportation.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ALLARD:

S. 1162. A bill to amend the Controlled Substances Act and the Controlled Substances Import and Export Act with respect to penalties for powder cocaine and crack offenses; to the Committee on the Judiciary.

THE POWDER-CRACK COCAINE PENALTY EQUALIZATION ACT OF 1997

Mr. ALLARD. Mr. President, today I rise to address one of the most longstanding and racially sensitive disputes in the criminal justice system. I am introducing legislation to equalize the criminal penalties for offenses involving crack and powder cocaine.

Under current law, a seller of 5 grams of crack cocaine receives the same mandatory 5-year prison term as a seller of 500 grams of powder cocaine.

That disparity between penalties has been scrutinized by the U.S. Sentencing Commission, Congress, and the Clinton administration for the last several years. Although many solutions have called for narrowing the gap in penalties, these recommendations don't go far enough. Instead of equalizing the penalties, they only narrow the disparity in sentencing for powder versus crack cocaine by altering the ratio from 5 to 1 instead of the current 100 to 1.

Additional recommendations have called for lessening the penalty for crack dealers, bringing it closer to the lax penalties applied to powder offenders.

My legislation rejects the hollow solution of lowering the penalty for crack to make it equal to powder cocaine penalties. The fact is that 90 percent of those convicted of dealing crack are African-Americans, while the majority of powder cocaine offenders are white.

Raising the powder cocaine penalties to that of crack will help alleviate the perception of unfairness and racial bias in sentencing. But reducing the penalties for crack cocaine would only increase violent crime and harm those which the law is seeking to help.

Statistics remind us that cocaine addiction continues to plague our society. According to the Partnership for a Drug Free America, 1 out of every 10 babies born in the United States is born addicted to drugs, and most are addicted to crack cocaine. Crime exploded between 1985 and 1990, the years crack was introduced. In fact, violent crime went up 37 percent in 1990 and aggravated assaults increased 43 percent. Partly because of crack cocaine, more teens in this country now die of gunshot wounds than all natural causes combined. Lowering sentences on crack cocaine would be devastating to the progress we have made in fighting the drug war.

During the 1980's, Congress legislated steep consequences for crack cocaine.

The crack epidemic spread across our Nation—and it warranted several drastic legal reforms. We saw the destruction wrought on entire communities by this cheap and highly addictive form of cocaine and realized that tough penalties were needed to restrict its availability.

These tougher sentences were needed, but the problem we are seeing today is that powder cocaine sentences were set before the crack epidemic began and do not reflect the influence powder has had on crime and drug trafficking.

This bill provides a twofold solution: It corrects the inequality in penalties which has contributed to the perceived race bias in sentencing; while at the same time stiffening the penalty for powder cocaine offenses, which are currently far too lenient.

In light of the numerous proposals introduced to correct this problem, I encourage my colleagues to contemplate the alternatives and consider how justice is served in this matter. Maintaining the current ratio is allowing a wrongful disparity in penalties to continue. Congress must act now to correct this injustice.

By Mr. BRYAN:

S. 1163. A bill to amend the Truth in Lending Act to prohibit the distribution of any negotiable check or other instrument with any solicitation to a consumer by a creditor to open an account under any consumer credit plan or to engage in any other credit transaction which is subject to that Act, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

THE UNSOLICITED LOAN CONSUMER PROTECTION ACT

Mr. BRYAN. Mr. President, I rise today to introduce legislation that will protect consumers from a new, egregious banking practice that gives new meaning to the old expression, ''The check's in the mail.''

This practice involves financial institutions sending unsolicited checks to consumers, some of whom have no prior relationship with the financial institution at all. These checks in fact obligate the recipient to a loan with interest rates as high as 25 percent.

I invite my colleagues' attention to a format that is frequently used. This check is sent in a window envelope in which the recipient sees his or her name, opens it up and believes that indeed a check has been sent to him or to her.

What may at first appear to be pennies from Heaven is in reality a loan backed by exorbitant interest rates and punitive loan terms, but these details are only found in the fine print often on the back of the check.

While only a few banks are engaged in this practice, it is nevertheless a growing practice and needs to be stopped before it gets completely out of hand. For example, one bank has booked $1 billion of these unsolicited loans in a period of 18 months.

At a time when personal bankruptcies are at an all-time high —many attribute that to easy credit-card debt—the practice in which consumers are enticed into taking a loan that they really have not sought should concern all Americans.

I fear for the long-term consequence of these loans should the economy take a sudden downturn and these loans are left in default.

The bottom line, Mr. President, is loans should only be issued when an application has been made and approved, with the consumer fully understanding the terms of the loan. In the case of these loans, all the pertinent information consumers need to know about

fees, charges, interest rates is in microscopic print and most frequently on the back of the check itself.

Mr. President, banks are trying the patience of the American consumer with their ever increasing use of fees and questionable market practices.

My State of Nevada has gone through a series of bank mergers that have left customers frustrated and confused. Service has been downgraded, accounts lost and fees increased. According to one report, the number of types of fees charged by banks increased from 96 to 250 while the banking industry itself continues to earn record profits—surpassing $50 billion.

These unsolicited checks are setting rates right up against the usury ceilings with some carrying rates as high as 25 percent. Adding insult to injury, these checks are targeted to people who can least afford to pay these exorbitant rates but are easily tempted by the lure of easy money.

Mr. President, I want to commend Congressmen HINCHEY and GONZALEZ in the House for raising this issue. I look forward to the Banking Committee holding hearings on this important legislation. The distinguished chairman of the subcommittee has indicated that it is his intention to hold hearings on this issue. I look forward to processing this legislation as quickly as possible.

By Mr. ABRAHAM (for himself, Mr. FEINGOLD, Mr. HUTCHINSON, Mr. COVERDELL, Mr. DEWINE, Mr. ASHCROFT, Mr. BROWNBACK, Mr. MACK, and Mr. HELMS):

S. 1164. A bill to state a policy of the United States that engages the People's Republic of China in areas of mutual interest, promotes human rights, religious freedom, and democracy in China, and enhances the national security interests of the United States with respect to China, and for other purposes; to the Committee on Foreign Relations.

CHINA POLICY ACT OF 1997

Mr. ABRAHAM. Mr. President, I rise today to introduce the China Policy Act of 1997. Cosponsors of this legislation include Senators FEINGOLD, HUTCHINSON, COVERDELL, DEWINE, ASHCROFT, BROWNBACK, MACK, and HELMS.

Now is the time, Mr. President, to take a closer look at our relations with the People's Republic of China. Preparations are underway for the October 28 state visit of Chinese President Jiang Zemin. The President will be feted, toasted, and praised. Meanwhile, Wei Jingsheng rots in a Beijing prison, serving out a 14-year sentence for the crime of peacefully advocating democracy and other political reforms.

This contrast, in my view, points up the current crisis in United States-China relations. For too long now, this administration has put process over substance, holding repeated meetings and discussions with Chinese leaders, but failing to set and hold to a concrete agenda addressing critical issues of human rights and religious freedom, as well as nuclear and other weapons proliferation.

There is much of substance to work out with Chinese leaders, Mr. President. To begin with, China's record of human rights abuses and repression of religious faith is long and disturbing. Women pregnant with their second or third child have been coerced into abortions. Peaceful advocates of democracy and political reforms have been sentenced to long terms in prisons where they have been beaten, tortured, and denied needed medical care. Religious meeting places have been forcibly closed. Tibetan monks refusing to condemn their religious leader, the Dalai Lama, have been forced from their monasteries; some of their leaders have disappeared.

President Clinton knows full well about these abuses. His own State Department just released a report on human rights in China which states that in 1996 ''The Government continued to commit widespread and well-documented human rights abuses, in violation of internationally accepted norms, stemming from the authorities' intolerance of dissent, fear of unrest, and the absence or inadequacy of laws protecting basic freedoms.'' America cannot allow these abuses of fundamental human rights to continue unopposed.

Our own national security also demands that we take a firmer, more substantive stance in our dealings with China. Although China signed the Nuclear Non-Proliferation Treaty and agreed to abide by the terms of the missile technology control regime in 1992, violations of both agreements continue. Especially worrisome are Chinese sales of weapons technology to Pakistan, Iran, and other countries in the Middle East.

Chinese weapons exports also have more directly threatened Americans here on United States soil. Companies associated with the People's Liberation Army [PLA] have been caught attempting to sell smuggled assault weapons to street gangs in Los Angeles.

Mr. President, I am not advocating any rash response to these provocations. China is an important nation with the potential to take part in mutually beneficial commerce and diplomatic cooperation, or destabilize a number of important strategic areas. In my view our disagreements with China call for development of incentives and disincentives designed to steer that country toward internal liberalization and constructive participation in the international community.

Up until now, debates over American policy toward China have focused almost exclusively on the annual extension of that country's most-favored-nation trading status [MFN]. Both sides in this debate have highlighted legitimate issues calling for reasoned argument. But, now that Congress has renewed MFN, it is imperative that we address broader United States-China relations, lest China policy be relegated to the back pages for another year.

I firmly believe, Mr. President, that Congress and the President can put United States-Chinese relations on a course toward substantive progress by taking concrete action now. That is why I am introducing the China Policy Act of 1997. This legislation is designed to discourage the Chinese regime from oppressive internal policies and destabilizing actions contrary to United States national security, while advancing American values of freedom and human rights among the Chinese people. It represents a consensus view reached among proponents on both sides of the MFN question. It combines provisions of China-related bills and amendments authored by myself and Senators FEINGOLD, ASHCROFT, DEWINE, COVERDELL, and BROWNBACK. I would like to extend special thanks to Senator FEINGOLD for strengthening the human rights focus of the bill.

This legislation includes a number of sanctions aimed at Chinese leaders intended to express our dismay at recent human rights abuses. First, the bill would deny American visas to high ranking Chinese Government officials involved in political and religious persecution. The bill also would require United States representatives at multilateral development banks to vote ''no'' on all loans to China, except those related to famine, national disaster relief, and environmental protection. This last provision also puts into practice the important principle that United States taxpayers should not be forced to subsidize the Chinese Government.

In addition, Mr. President, the bill would institute targeted sanctions against PLA companies found to have engaged in weapons proliferation, illegal importation of weapons to the United States or military or political espionage in the United States. The U.S. Government also would publish a list of other PLA-controlled companies. This would allow American companies and consumers to decide whether they wish to purchase products manufactured in whole or in part by the Communist Chinese army. The bill also takes direct aim at China's use of slave labor by instituting stricter enforcement of the ban against sale of Chinese products produced in prison labor camps.

These sanctions, specifically aimed at government officials and the Chinese Governmental apparatus, will show our determination to stand up and defend human rights and religious freedom.

This legislation also would tighten United States export licensing requirements for supercomputers sold to China. This will impede Chinese weapons development and proliferation.

In addition to its sanctions, the bill includes provisions to encourage internal reforms and cultural exchanges between our two countries. It would increase funding for international broadcasting to China, including Radio Free Asia and the Voice of America. I also

would increase funding for National Endowment for Democracy and U.S. Information Agency student, cultural, and legislative exchange programs.

These concrete actions would make clear to the Chinese leadership that there is a price to be paid for human rights abuses and for irresponsible weapons proliferation. They also would encourage greater openness in that country, without penalizing the Chinese people for the actions of their Government. They would provide the basis for substantive negotiations and a productive relationship with China.

It is my hope that my colleagues will adopt these measures, and that the President will seize the opportunity to set our policy on a new, more productive course.

Mr. President, I ask unanimous consent that a summary and the full text of the China Policy Act of 1997 be printed in the RECORD.

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

S. 1164

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 ''China Policy Act of 1997''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Declaration of policy.

TITLE I—SANCTIONS

Sec. 101. Denial of entry into United States of certain officials of the People's Republic of China.
Sec. 102. Limitations on multilateral assistance for the People's Republic of China.
Sec. 103. Sanctions regarding China North Industries Group, China Poly Group, and certain other entities affiliated with the People's Liberation Army.
Sec. 104. Consultations with allies regarding sanctions against the People's Republic of China.
Sec. 105. Termination of certain authorities.

TITLE II—HUMAN RIGHTS, RELIGIOUS FREEDOM, AND DEMOCRACY IN CHINA

Sec. 201. Findings on human rights abuses in the People's Republic of China.
Sec. 202. Findings on religious freedom in the People's Republic of China.
Sec. 203. Findings on Tibet.
Sec. 204. Findings on coercive family planning practices in the People's Republic of China.
Sec. 205. Combating slave labor and ''reeducation'' centers.
Sec. 206. International broadcasting to China.
Sec. 207. National Endowment for Democracy.
Sec. 208. United States Information Agency student, cultural, and legislative exchange programs.
Sec. 209. Annual reports on family planning activities in the People's Republic of China by recipients of United States funds.
Sec. 210. Sense of Congress regarding multilateral efforts to address China's human rights record.
Sec. 211. Sense of Congress regarding compliance by the People's Republic of China with the Joint Declaration on Hong Kong.

TITLE III—NATIONAL SECURITY MATTERS

Sec. 301. Findings on the proliferation of ballistic missiles by the People's Republic of China.
Sec. 302. Findings on the proliferation of weapons of mass destruction by the People's Republic of China.
Sec. 303. Findings on the proliferation of destabilizing advanced conventional weapons by the People's Republic of China.
Sec. 304. Findings on the evasion of United States export control laws by the People's Republic of China.
Sec. 305. Findings on the inconsistent application of United States export control laws to the People's Republic of China and Hong Kong.
Sec. 306. Exports of supercomputers to the People's Republic of China.
Sec. 307. Dual-use exports to Hong Kong.
Sec. 308. Enforcement of Iran-Iraq Arms Non-Proliferation Act with respect to the People's Republic of China.
Sec. 309. Transfers of sensitive equipment and technology by the People's Republic of China.
Sec. 310. Annual reports on activities of the People's Liberation Army.
Sec. 311. Annual reports on intelligence activities of the People's Republic of China.
Sec. 312. Study of theater ballistic missile defense system for Taiwan.
Sec. 313. Sense of Congress regarding United States force levels in Asia.
Sec. 314. Sense of Congress regarding establishment of commission on security and cooperation in Asia.

TITLE IV—TRADE

Sec. 401. Sense of Congress regarding the accession of Taiwan to the World Trade Organization.

TITLE V—HUMAN RIGHTS AND RELIGIOUS FREEDOM WORLDWIDE

Sec. 501. Training for immigration officers regarding religions persecution.
Sec. 502. Promotion of religious freedom and human rights worldwide.

TITLE VI—OTHER MATTERS

Sec. 601. Termination of United States assistance for East-West Center.

SEC. 2. DECLARATION OF POLICY.

The policy of the United States with respect to the People's Republic of China is as follows:

(1) To encourage freedom and democracy in the People's Republic of China and to deter the Government of the People's Republic of China from engaging in activities that are contrary to the national security interests of the United States.

(2) To encourage the Government of the People's Republic of China to make progress towards improving overall human rights conditions in China and Tibet, including the taking of concrete steps to assure freedom of speech, freedom of religion, and freedom of association in compliance with international standards on human rights.

(3) To encourage the Government of the People's Republic of China to channel its emerging power and influence along paths that are conducive to peace, stability, and development in the Asian Pacific region.

(4) To preserve and protect the national security interests of the United States and its allies by—

(A) deterring the proliferation of weapons and sensitive equipment and technology by the Government of the People's Republic of China; and

(B) sanctioning companies affiliated with the People's Liberation Army that engage in the proliferation of weapons of mass destruction, the importation of illegal weapons or firearms into the United States, or espionage in the United States.

(5) To support a strong United States presence in and commitment to the leadership of the Asian Pacific region.

(6) To support integration of the People's Republic of China into the community of nations.

(7) To limit the use of United States taxpayer funds for the subsidization of the Government of the People's Republic of China through such mechanisms as assistance through multilateral development banks and other United States Government programs.

TITLE I—SANCTIONS

SEC. 101. DENIAL OF ENTRY INTO UNITED STATES OF CERTAIN OFFICIALS OF THE PEOPLE'S REPUBLIC OF CHINA.

(a) DENIAL OF ENTRY.—Except as provided in subsection (b), the Secretary of State may not issue any visa to, and the Attorney General may not admit to the United States, any of the following officials of the Government of the People's Republic of China:

(1) High-ranking officials of the People's Liberation Army, as determined by the Secretary.

(2) High-ranking officials of the Public Security Bureau, as so determined.

(3) High-ranking officials of the Religious Affairs Bureau, as so determined.

(4) Other high-ranking officials determined by the Secretary to be involved in the implementation or enforcement of laws and directives of the People's Republic of China which restrict religious freedom.

(5) High-ranking officials determined by the Secretary to be involved in the implementation or enforcement of laws and directives of the People's Republic of China on family planning.

(6) Officials determined by the Secretary to have been materially involved in ordering or carrying out the massacre of students in Tiananmen Square in 1989.

(b) WAIVER.—

(1) IN GENERAL.—Subject to paragraph (2), the President may waive the applicability of subsection (a) with respect to any official otherwise covered by that subsection if the President determines that the waiver with respect to the official is in the interests of the United States.

(2) NOTICE.—

(A) REQUIREMENT.—The President may not exercise the authority provided in paragraph (1) with respect to an official unless the President submits to Congress a written notification of the exercise of the authority before the entry of the official into the United States.

(B) CONTENTS.—Each notice shall include a justification of the exercise of the authority, including—

(i) a statement why the exercise of the authority is in the interests of the United States; and

(ii) a statement why such interests supersede the need for the United States to deny entry to the official concerned in response to the practices of the Government of the People's Republic of China which limit the free exercise of religion and other human rights.

SEC. 102. LIMITATIONS ON MULTILATERAL ASSISTANCE FOR THE PEOPLE'S REPUBLIC OF CHINA.

(a) INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT.—

(1) OPPOSITION TO ASSISTANCE.—

(A) OPPOSITION.—Except as provided in subparagraph (B), the Secretary of the Treasury shall instruct the United States Executive Director of the International Bank for Reconstruction and Development to vote against any loan or other utilization of the

funds of the Bank to or for the People's Republic of China.

(B) EXCEPTION.—Subparagraph (A) shall not apply to any loan or other utilization of funds for purposes of—

(i) meeting basic human needs; or

(ii) environmental improvements or safeguards.

(2) OPPOSITION TO MODIFICATION OF SINGLE COUNTRY LOAN LIMIT.—The Secretary shall instruct the United States Executive Director of the International Bank for Reconstruction and Development to vote against any modification of the limitation on the share of the total funds of the Bank that may be loaned to a single country.

(b) ASIAN DEVELOPMENT BANK.—

(1) OPPOSITION TO ASSISTANCE.—Except as provided in paragraph (2), the Secretary shall instruct the United States Director of the Asian Development Bank to vote against any loan or other utilization of the funds of the Bank to or for the People's Republic of China.

(2) EXCEPTION.—Paragraph (1) shall not apply to any loan or other utilization of funds for purposes of—

(A) meeting basic human needs; or

(B) environmental improvements or safeguards.

(c) INTERNATIONAL MONETARY FUND.—

(1) OPPOSITION TO ASSISTANCE.—Except as provided in paragraph (2), the Secretary shall instruct the United States Executive Director of the International Monetary Fund to vote against any loan or other utilization of the funds of the Fund to or for the People's Republic of China.

(2) EXCEPTION.—Paragraph (1) shall not apply to any loan or other utilization of funds for purposes of—

(A) meeting basic human needs; or

(B) environmental improvements or safeguards.

(d) BASIC HUMAN NEEDS DEFINED.—In this section, the term ''basic human needs'' refers to human needs arising from natural disasters or famine.

SEC. 103. SANCTIONS REGARDING CHINA NORTH INDUSTRIES GROUP, CHINA POLY GROUP, AND CERTAIN OTHER ENTITIES AFFILIATED WITH THE PEOPLE'S LIBERATION ARMY.

(a) FINDING; PURPOSE.—

(1) FINDING.—Congress finds that, in May 1996, United States authorities caught representatives of the People's Liberation Army enterprise, China Poly Group, and the civilian defense industrial company, China North Industries Group, attempting to smuggle 2,000 AK–47s into Oakland, California, and offering to sell to Federal undercover agents 300,000 machine guns with silencers, 66-millimeter mortars, hand grenades, and ''Red Parakeet'' surface-to-air missiles, which, as stated in the criminal complaint against one of those representatives, ''. . . could take out a 747'' aircraft.

(2) PURPOSE.—The purpose of this section is to impose targeted sanctions against entities affiliated with the People's Liberation Army that engage in the proliferation of weapons of mass destruction, the importation of illegal weapons or firearms into the United States, or espionage in the United States.

(b) SANCTIONS AGAINST CERTAIN PLA AFFILIATES.—

(1) SANCTIONS.—Except as provided in paragraph (2) and subject to paragraph (3), the President shall—

(A) prohibit the importation into the United States of all products that are produced, grown, or manufactured by a covered entity, the parent company of a covered entity, or any affiliate, subsidiary, or successor entity of a covered entity;

(B) direct the Secretary of State and the Attorney General to deny or impose restrictions on the entry into the United States of any foreign national serving as an officer, director, or employee of a covered entity or other entity described in subparagraph (A);

(C) prohibit the issuance to a covered entity or other entity described in subparagraph (A) of licenses in connection with the export of any item on the United States Munitions List;

(D) prohibit the export to a covered entity or other entity described in subparagraph (A) of any goods or technology on which export controls are in effect under section 5 or 6 of the Export Administration Act of 1979;

(E) direct the Export-Import Bank of the United States not to give approval to the issuance of any guarantee, insurance, extension of credit, or participation in the extension of credit with respect to a covered entity or other entity described in subparagraph (A);

(F) prohibit United States nationals from directly or indirectly issuing any guarantee for any loan or other investment to, issuing any extension of credit to, or making any investment in a covered entity or other entity described in subparagraph (A); and

(G) prohibit the departments and agencies of the United States and United States nationals from entering into any contract with a covered entity or other entity described in subparagraph (A) for the procurement or other provision of goods or services from such entity.

(2) EXCEPTIONS.—

(A) IN GENERAL.—The President shall not impose sanctions under this subsection—

(i) in the case of the procurement of defense articles or defense services—

(I) under contracts or subcontracts that are in effect on October 1, 1997 (including the exercise of options for production quantities to satisfy United States operational military requirements);

(II) if the President determines that the person or entity to whom the sanctions would otherwise be applied is a sole source supplier of essential defense articles or services and no alternative supplier can be identified; or

(III) if the President determines that such articles or services are essential to the national security; or

(ii) in the case of—

(I) products or services provided under contracts or binding agreements (as such terms are defined by the President in regulations) or joint ventures entered into before October 1, 1997;

(II) spare parts;

(III) component parts that are not finished products but are essential to United States products or production;

(IV) routine servicing and maintenance of products; or

(V) information and technology products and services.

(B) IMMIGRATION RESTRICTIONS.—The President shall not apply the restrictions described in paragraph (1)(B) to a person described in that paragraph if the President, after consultation with the Attorney General, determines that the presence of the person in the United States is necessary for a Federal or State judicial proceeding against a covered entity or other entity described in paragraph (1)(A).

(3) TERMINATION.—The sanctions under this subsection shall terminate as follows:

(A) In the case of an entity referred to in paragraph (1) or (2) of subsection (c), on the date that is one year after the date of enactment of this Act.

(B) In the case of an entity that becomes a covered entity under paragraph (3) or (4) of subsection (c) by reason of its identification in a report under subsection (d), on the date that is one year after the date on which the entity is identified in such report.

(c) COVERED ENTITIES.—For purposes of subsection (b), a covered entity is any of the following:

(1) China North Industries Group.

(2) China Poly Group, also known as Polytechnologies Incorporated or BAOLI.

(3) Any affiliate of the People's Liberation Army identified in a report of the Director of Central Intelligence under subsection (d)(1).

(4) Any affiliate of the People's Liberation Army identified in a report of the Director of the Federal Bureau of Investigation under subsection (d)(2).

(d) REPORTS ON ACTIVITIES OF PLA AFFILIATES.—

(1) TRANSFERS OF SENSITIVE ITEMS AND TECHNOLOGIES.—Not later than 30 days after the date of enactment of this Act and annually thereafter through 2002, the Director of Central Intelligence shall submit to the appropriate members Congress a report that identifies each entity owned wholly or in part by the People's Liberation Army which, during the 2-year period ending on the date of the report, transferred to any other entity a controlled item for use in the following:

(A) Any item listed in category I or category II of the MTCR Annex.

(B) Activities to develop, produce, stockpile, or deliver chemical or biological weapons.

(C) Nuclear activities in countries that do not maintain full-scope International Atomic Energy Agency safeguards or equivalent full-scope safeguards.

(2) ILLEGAL ACTIVITIES IN THE UNITED STATES.—Not later than 30 days after the date of enactment of this Act and annually thereafter through 2002, the Director of the Federal Bureau of Investigation shall submit to the appropriate members Congress a report that identifies each entity owned wholly or in part by the People's Liberation Army which, during the 2-year period ending on the date of the report, attempted to—

(A) illegally import weapons or firearms into the United States; or

(B) engage in military intelligence collection or espionage in the United States under the cover of commercial business activity.

(3) FORM.—Each report under this subsection shall be submitted in classified form.

(e) DEFINITIONS.—In this section:

(1) AFFILIATE.—The term ''affiliate'' does not include any United States national engaged in a business arrangement with a covered entity or other entity described in subsection (b)(1)(A).

(2) APPROPRIATE MEMBERS OF CONGRESS.—The term ''appropriate members of congress'' means the following:

(A) The Majority leader and Minority leader of the Senate.

(B) The chairmen and ranking members of the Committee on Foreign Relations and the Committee on Armed Services of the Senate.

(C) The Speaker and Minority leader of the House of Representatives.

(D) The chairmen and ranking members of the Committee on International Relations and the Committee on National Security of the House of Representatives.

(3) COMPONENT PART.—The term ''component part'' means any article that is not usable for its intended function without being embedded or integrated into any other product and, if used in the production of a finished product, would be substantially transformed in that process.

(4) CONTROLLED ITEM.—The term ''controlled item'' means the following:

(A) Any item listed in the MTCR Annex.

(B) Any item listed for control by the Australia Group.

(C) Any item relevant to the nuclear fuel cycle of nuclear explosive applications that

are listed for control by the Nuclear Suppliers Group.

(5) FINISHED PRODUCT.—The term ''finished product'' means any article that is usable for its intended function without being embedded in or integrated into any other product, but does not include an article produced by a person or entity other than a covered entity or other entity described in subsection (b)(1)(A) that contains parts or components of such an entity if the parts or components have been substantially transformed during production of the finished product.

(6) INVESTMENT.—The term ''investment'' includes any contribution or commitment of funds, commodities, services, patents, processes, or techniques, in the form of—

(A) a loan or loans;

(B) the purchase of a share of ownership;

(C) participation in royalties, earnings, or profits; and

(D) the furnishing of commodities or services pursuant to a lease or other contract,

but does not include routine maintenance of property.

(7) MTCR ANNEX.—The term ''MTCR Annex'' has the meaning given that term in section 74(4) of the Arms Export Control Act (22 U.S.C. 2797c(4)).

(8) UNITED STATES NATIONAL.—

(A) IN GENERAL.—The term ''United States national'' means—

(i) any United States citizen; and

(ii) any corporation, partnership, or other organization created under the laws of the United States, any State, the District of Columbia, or any territory or possession of the United States.

(B) EXCEPTION.—The term ''United States national'' does not include a subsidiary or affiliate of corporation, partnership, or organization that is a United States national if the subsidiary or affiliate is located outside the United States.

SEC. 104. CONSULTATIONS WITH ALLIES REGARDING SANCTIONS AGAINST THE PEOPLE'S REPUBLIC OF CHINA.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the President should begin consultations with the major allies and other trading partners of the United States in order to encourage such allies and trading partners to adopt sanctions against the People's Republic of China that are similar to the sanctions imposed on the People's Republic of China by section 102.

(b) REPORT.—Not later than 45 days after the completion of the first Group of Seven summit meeting after the date of enactment of this Act, the President shall submit to Congress a report on the results, if any, of consultations referred to in subsection (a).

SEC. 105. TERMINATION OF CERTAIN AUTHORITIES.

(a) TERMINATION DATE.—Sections 101 and 102 shall cease to apply at the end of the five-year period beginning on the date of enactment of this Act.

(b) SENSE OF CONGRESS ON REVIEW.—It is the sense of Congress that Congress should review the desirability of terminating the sanctions in this title before the date on which the sanctions would otherwise terminate under this title upon the occurrence of any of the following events:

(1) The admission of the People's Republic of China into the World Trade Organization on commercially viable terms.

(2) A determination by the President that the Government of the People's Republic of China is implementing fully all applicable international agreements relating to the proliferation of arms.

(3) A determination by the President that the Government of the People's Republic of China is actively and effectively combatting all forms of religious persecution in China.

(4) A determination by the President that the Government of the People's Republic of China is reevaluating in a meaningful manner its actions regarding the massacre of students in Tiananmen Square in 1989.

(5) The publication by the Government of the People's Republic of China of a report on the national security strategy of that government which includes a comprehensive description and discussion of the elements of that strategy similar to the description and discussion of the national security strategy of the United States in the annual report required by section 108 of the National Security Act of 1947 (50 U.S.C. 404a).

(6) A determination by the President that the Government of the People's Republic of China has taken meaningful actions toward improving overall human rights conditions in China and Tibet, including the release of political prisoners, improving prison conditions, providing prisoners with adequate medical care, and full compliance with any international human rights accords to which that government is a signatory.

TITLE II—HUMAN RIGHTS, RELIGIOUS FREEDOM, AND DEMOCRACY IN CHINA

SEC. 201. FINDINGS ON HUMAN RIGHTS ABUSES IN THE PEOPLE'S REPUBLIC OF CHINA.

Congress makes the following findings regarding human rights abuses in the People's Republic of China:

(1) Congress concurs in the following conclusions of the Department of State regarding human rights in the People's Republic of China in 1996:

(A) The People's Republic of China is ''an authoritarian state'' in which ''citizens lack the freedom to peacefully express opposition to the party-led political system and the right to change their national leaders or form of government''.

(B) The Government of the People's Republic of China has ''continued to commit widespread and well documented human rights abuses, in violation of internationally accepted norms, stemming from the authorities' intolerance of dissent, fear of unrest, and the absence or inadequacy of laws protecting basic freedoms''.

(C) ''Abuses include torture and mistreatment of prisoners, forced confessions, and arbitrary and incommunicado detention''.

(D) ''Prison conditions remained harsh [and] [t]he Government continued severe restrictions on freedom of speech, the press, assembly, association, religion, privacy, and worker rights''.

(E) ''Although the Government denies that it holds political prisoners, the number of persons detained or serving sentences for 'counterrevolutionary crimes' or 'crimes against the state' and for peaceful political or religious activities are believed to number in the thousands''.

(F) ''Non-approved religious groups, including Protestant and Catholic groups . . . experienced intensified repression''.

(G) ''Serious human rights abuses persist in minority areas, including Tibet, Xinjiang, and Inner Mongolia [, and] [c]ontrols on religion and other fundamental freedoms in these areas have also intensified''.

(H) ''Overall in 1996, the authorities stepped up efforts to cut off expressions of protest or criticism. All public dissent against the party and government was effectively silenced by intimidation, exile, the imposition of prison terms, administrative detention, or house arrest. No dissidents were known to be active at year's end.''.

(2) People's Republic of China authorities continue to hold Wei Jingsheng in prison for his prodemocracy beliefs, and he is suffering in prison from a lack of medical attention and beatings by fellow prisoners.

(3) On October 30, 1996, a People's Republic of China court sentenced Wang Dan to 11 years in prison primarily for articles published outside the People's Republic of China, and People's Republic of China authorities are not providing him with adequate medical care.

(4) In addition to Wei Jingsheng and Wang Dan, hundreds, if not thousands, of other political, religious, and labor dissidents are imprisoned in China for peacefully expressing their beliefs and exercising their internationally recognized rights of free association and expression.

(5) Labor activist Liu Nianchun, severely ill in a labor camp, has not only been denied medical treatment but has been tortured with electric batons and has had his 3 year reeducation-through-labor sentence in prison arbitrarily extended by 216 days.

(6) Li Hai was charged with prying into and gathering state secrets and subsequently sentenced to a 9-year term in prison on December 18, 1996, for going door-to-door to collect the names, ages, family situations, alleged crimes, lengths of prison sentences, locations of imprisonment, and treatment while imprisoned of people sentenced to prison for their activities during the 1989 Tiananmen Square protests.

(7) Gao Yu, serving a 6-year term in prison on charges of ''leaking state secrets'' despite the fact that the information in question was already common knowledge, has been denied medical parole and adequate medical care despite life threatening illness and was vilified by People's Republic of China authorities after she was awarded the UNESCO Guillemo Cano World Press Freedom Prize.

(8) People's Republic of China companies still export prison labor products to the United States. Since 1991, the United States Customs Service has issued 27 detention orders banning the importation of goods suspected to be products of prison labor in China, including hand tools, artificial flowers, Christmas tree lights, and diesel engines.

(9) The People's Republic of China has not fully complied with the 1992 Memorandum of Understanding on Prison Labor, and People's Republic of China authorities often wait several years before granting requests by United States Customs Service officials to inspect prison facilities in China. In 1996, such authorities granted just one of eight outstanding requests by such officials to inspect prison facilities in China.

(10) Under current law, People's Republic of China authorities may administratively sentence China citizens to 3 years of labor reform without trial.

(11) The People's Republic of China restricts the access of its citizens to the Internet and blocks web sites operated by foreign news organizations and human rights organizations.

(12) The Government of the People's Republic of China prohibits independent labor unions, and workers who attempt to form unions without state approval are given severe prison sentences as shown in the treatment of Zhang Jingsheng, a labor leader in Hunan province who was arrested following the 1989 Tiananmen Square Massacre and sentenced to 13 years in prison for organizing workers.

SEC. 202. FINDINGS ON RELIGIOUS FREEDOM IN THE PEOPLE'S REPUBLIC OF CHINA.

Congress makes the following findings regarding religious freedom in the People's Republic of China:

(1) The Government of the People's Republic of China restricts the ability of religious adherents, including Christians, Buddhists, Muslims, and others, to practice outside of state-approved religious organizations, and

detains worshipers and clergy who participate in religious services conducted outside state-approved religious organizations, as well as those who refuse to register with the authorities as required.

(2) Bishop Zeng Jingmu, 76 years old, detained for the third time in 7 months and in poor health from pneumonia, is serving a re-education through labor term for organizing religious assemblies and masses not sanctioned by the official Chinese Catholic Church.

(3) On January 31, 1994, Premier Li Peng signed decrees number 144 and 145 which restrict worship, religious education, distribution of Bibles and others religious literature, and contact with foreign coreligionists.

(4) The Government of the People's Republic of China has created official religious organizations that control all religious worship, activity, and association in China and Tibet and supplant the independent authority of the Roman Catholic Church, independent Protestant churches, and independent Buddhist, Taoist, and Islamic associations.

(5) In July 1995, Ye Xiaowen, a rigid communist hostile to religion, was appointed to head the Bureau of Religious Affairs, a government agency of the People's Republic of China that is controlled by the United Front Work Department of the Chinese Communist Party. The Bureau of Religious Affairs has administrative control over all religious worship and activity in China and Tibet through a system of granting or denying rights through an official registration system. Those who fail to or are not allowed to register are subject to punitive measures.

(6) Unofficial Christian and Catholic communities were targeted by the Government of the People's Republic of China during 1996. A renewed campaign aimed at forcing all churches to register or face dissolution resulted in beating and harassment of congregants, closure of churches, and numerous arrests, fines, and sentences. In Shanghai, for example, more than 300 house churches or meeting points were closed down by the security authorities in April alone.

SEC. 203. FINDINGS ON TIBET.

Congress makes the following findings regarding Tibet:

(1) The Department of State China Country Report on Human Rights Practices for 1996 states: ''Chinese government authorities continued to commit widespread human rights abuses in Tibet, including instances of death in detention, torture, arbitrary arrest, detention without public trial, long detention of Tibetan nationalists for peacefully expressing their religious and political views, and intensified controls on religion and on freedom of speech and the press, particularly for ethnic Tibetans.''.

(2) The report also cites three instances in which Tibetan Buddhist monks died in prison in the People's Republic of China in 1996.

(3) Many victims of the brutality committed by the People's Armed Police and the Public Security Bureau of the People's Republic of China have been young Tibetan Buddhist nuns and monks.

(4) Between June 1994 and May 1995, three Tibetan nuns—15-year-old Sherab Ngawang, 24-year-old Gyaltsen Kelsang, and 20-year-old Phuntsok Yangkyi—died as a result of torture in prison in Tibet.

(5) On March 11, 1997, the Senate adopted a resolution calling for the release by the Government of the People's Republic of China of Tibetan ethnomusicologist and Fulbright Scholar Ngawang Choephel, who was sentenced to 18 years in prison in the People's Republic of China in December 1996, and of other Tibetans who are prisoners in the People's Republic of China for reasons of conscience.

(6) In May 1995, authorities of the Government of the People's Republic of China detained Gedhun Choekyi Nyima, then 6 years old, and his parents, just days after the boy was recognized by the Dalai Lama as the 11th Panchen Lama, and authorities of that government continue to hold him and his family.

(7) In May 1997, the Government of the People's Republic of China announced the sentencing of Chadrel Rinpoche, the head of the search committee for the 11th Panchen Lama, to 6 years in prison.

(8) In April 1996, authorities of the Government of the People's Republic of China banned the display of photographs of the Dalai Lama, even in private homes, and the decision led to demonstrations in Ganden monastery during which 90 monks were arrested and 1 monk was shot to death by security forces of that government.

SEC. 204. FINDINGS ON COERCIVE FAMILY PLANNING PRACTICES IN THE PEOPLE'S REPUBLIC OF CHINA.

Congress makes the following findings regarding family planning practices in the People's Republic of China:

(1) For more than 15 years there have been frequent and credible reports of forced abortion and forced sterilization in connection with the coercive population control practices of the People's Republic of China.

(2) Forced abortion was rightly denounced as a crime against humanity by the Nuremberg War Crimes Tribunal.

(3) Although it is the stated position of the politburo of the Chinese Communist Party that forced abortion and forced sterilization have no role in the population control program of the Government of the People's Republic of China, the policy of that government seems to encourage both forced abortion and forced sterilization through a combination of strictly enforced birth quotas and impunity for local population control officials who engage in coercion. Officials acknowledge that there have been instances of forced abortions and sterilization, yet there is no evidence that the perpetrators of such acts have been punished.

(4) The People's Republic of China population control officials, in cooperation with employers and works unit officials, monitor women's menstrual cycles and subject women who conceive without government authorization to extreme psychological pressure, to harsh economic sanctions (including unpayable fines and loss of employment), and to physical force.

(5) Official sanctions for giving birth to unauthorized children include fines in amounts several times larger than the per capita annual incomes of residents of the People's Republic of China. In Fujian, for example, the average fine is estimated to be twice a family's gross annual income. Families who cannot pay the fine have had their homes and personal property confiscated and destroyed.

(6) Especially harsh punishments have been inflicted on those whose resistance to such policies is motivated by religion. For example, according to a 1995 Amnesty International report, the Catholic inhabitants of two villages in Hebei Province were subjected to population control under the slogan ''better to have more graves than one more child''. Enforcement measures included torture, sexual abuse, and the detention of resisters' relatives as hostages.

(7) Forced abortions in the People's Republic of China often take place in the very late stages of pregnancy, or even during the process of birth itself.

SEC. 205. COMBATING SLAVE LABOR AND ''RE-EDUCATION'' CENTERS.

(a) AUTHORIZATIONS FOR APPROPRIATIONS FOR ADDITIONAL MONITORING OF EXPORTATION OF SLAVE LABOR PRODUCTS.—There are authorized to be appropriated $2,000,000 for fiscal year 1998 and $2,000,000 for fiscal year 1999 for monitoring by the United States Customs Service and the Department of State of the export by the People's Republic of China to the United States of products which may be made with slave labor in violation of section 307 of the Tariff Act of 1930 (19 U.S.C. 1307) or section 1761 of title 18, United States Code.

(b) REPORTS ON EXPORTATION OF PRODUCTS MADE WITH SLAVE LABOR.—

(1) REPORTS.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act and annually thereafter, the Commissioner of Customs and the Secretary of State shall each submit to the Members of Congress referred to in subparagraph (B) a report on the manufacturing and exportation of products made with slave labor in the People's Republic of China during the one-year period ending on the date of the report. Each report shall be submitted in unclassified form, but may include a classified annex.

(B) MEMBERS OF CONGRESS.—Reports under subparagraph (A) shall be submitted to the following Members of Congress:

(i) The Majority leader and Minority leader of the Senate.

(ii) The chairman and ranking member of the Committee on Foreign Relations of the Senate.

(iii) The Speaker and Minority leader of the House of Representatives.

(iv) The chairman and ranking member of the Committee on International Relations of the House of Representatives.

(2) CONTENTS OF REPORTS.—Each report under paragraph (1) shall include information concerning the following:

(A) The extent of the use of slave labor in manufacturing products for exportation by the People's Republic of China, as well as the volume of exports of such slave labor products by that country.

(B) The progress of the United States Government—

(i) in identifying products made with slave labor in the People's Republic of China that are destined for the United States market in violation of section 307 of the Tariff Act of 1930 or section 1761 of title 18, United States Code; and

(ii) in stemming the importation of such products.

(c) RENEGOTIATION OF MEMORANDUM OF UNDERSTANDING ON PRISON LABOR WITH THE PEOPLE'S REPUBLIC OF CHINA.—It is the sense of Congress that, since the People's Republic of China has substantially frustrated the purposes of the 1992 Memorandum of Understanding with the United States on Prison Labor, the President should immediately commence negotiations to replace the memorandum of understanding with one providing for effective monitoring of forced labor in the People's Republic of China, without restrictions on which prison labor camps international monitors may visit.

SEC. 206. INTERNATIONAL BROADCASTING TO CHINA.

(a) AUTHORIZATION OF APPROPRIATIONS.—In addition to such sums as are otherwise authorized to be appropriated for ''International Broadcasting Activities'' for fiscal year 1998, there is authorized to be appropriated for ''International Broadcasting Activities'' for that fiscal year $5,000,000, which shall be available only for broadcasting by Radio Free Asia and the Voice of America to the People's Republic of China.

(b) SENSE OF CONGRESS.—It is the sense of Congress that United States international broadcasting through Radio Free Asia and Voice of America should be increased to provide continuous 24-hour broadcasting in Chinese and Tibetan dialects which include Mandarin Chinese, Tibetan, and at least one other dialect.

SEC. 207. NATIONAL ENDOWMENT FOR DEMOCRACY.

In addition to such sums as are otherwise authorized to be appropriated for fiscal year 1998 for grants to the National Endowment for Democracy, there is authorized to be appropriated for that fiscal year $2,000,000 for grants to the Endowment which shall be available only for purposes of programs relating to the People's Republic of China.

SEC. 208. UNITED STATES INFORMATION AGENCY STUDENT, CULTURAL, AND LEGISLATIVE EXCHANGE PROGRAMS.

In addition to such sums as are otherwise authorized to be appropriated to the United States Information Agency for fiscal year 1998, there is authorized to be appropriated for the Agency for that fiscal year $2,000,000, which shall be available only for the purposes of student, cultural, and legislative exchange activities in or with the People's Republic of China.

SEC. 209. ANNUAL REPORTS ON FAMILY PLANNING ACTIVITIES IN THE PEOPLE'S REPUBLIC OF CHINA BY RECIPIENTS OF UNITED STATES FUNDS.

(a) ANNUAL REPORTS.—

(1) REQUIREMENT.—Not later than January 15 each year, the Secretary of State shall submit to Congress a report that describes the family planning activities in the People's Republic of China during the preceding year of each covered family planning organization that carried out such activities in the People's Republic of China during that year.

(2) ADDITIONAL INFORMATION.—Each report under paragraph (1) shall include the filing submitted to the Secretary for purposes of such report by each covered family planning organization whose activities are covered by such report.

(b) COVERED FAMILY PLANNING ORGANIZATION DEFINED.—In this section, the term ''covered family planning organization'' means any for-profit or non-profit entity that receives United States funds to conduct family planning activities abroad.

SEC. 210. SENSE OF CONGRESS REGARDING MULTILATERAL EFFORTS TO ADDRESS CHINA'S HUMAN RIGHTS RECORD.

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

(1) On April 15, 1997, members of the United Nations Human Rights Commission voted 27–17 to block a resolution, sponsored by Denmark, critical of the human rights record of the Government of the People's Republic of China.

(2) The United States Government failed to vigorously lobby other nations to support the resolution in a timely and effective manner, and France, Canada, Germany, Italy, Spain, Australia, and Japan did not cosponsor the resolution.

(3) In response to support for the resolution by Denmark and the Netherlands, the Government of the People's Republic of China has adopted punitive measures against Denmark and Netherlands businesses—including the denial of contracts to Netherlands companies and undue delays in authorizing expansion plans by the Denmark shipping line Maersk—thereby linking human rights and trade.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States Government should greatly increase efforts in the United Nations Human Rights Commission and other international fora to draw attention to and condemn the gross violations of international standards on human rights by the Government of the People's Republic of China;

(2) the President should vigorously lobby other countries for passage of future Commission resolutions on the human rights record of the Government of the People's Republic of China; and

(3) such lobbying should begin not later than 6 months before the commencement of the next annual meeting of the Commission.

SEC. 211. SENSE OF CONGRESS REGARDING COMPLIANCE BY THE PEOPLE'S REPUBLIC OF CHINA WITH THE JOINT DECLARATION ON HONG KONG.

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

(1) The People's Republic of China resumed sovereignty over Hong Kong on July 1, 1997.

(2) In the Joint Declaration, a legally binding document in all its parts and the highest form of commitment between sovereign states, the People's Republic of China pledged that after its resumption of sovereignty over Hong Kong ''[t]he current social and economic systems in Hong Kong will remain unchanged, and so will the life-style. Rights and freedoms, including those of the person, of speech, of the press, of association, of travel, of movement, of correspondence, of strike, of choice of occupation, of academic research and religious belief will be ensured by law in the Hong Kong Special Administrative Region''.

(3) The People's Republic of China further pledged in the Joint Declaration that the policies of the ''... Joint Declaration will be stipulated in a Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, by the National People's Congress of the People's Republic of China, and they will remain unchanged for 50 years''.

(4) The Basic Law prescribes the systems to be practiced in the Hong Kong Special Administrative Region after the resumption of sovereignty over Hong Kong by the People's Republic of China.

(5) According to Article 2 of the Basic Law: ''The National People's Congress authorizes the Hong Kong Special Administrative Region to exercise a high degree of autonomy and enjoy executive, legislative and independent judicial power, including that of final adjudication''.

(6) According to Article 5 of the Basic Law: ''The socialist system and policies (of the People's Republic of China) shall not be practiced in the Hong Kong Special Administrative Region, and the previous capitalist system and way of life shall remain unchanged for 50 years''.

(7) According to Article 27 of the Basic Law: ''Hong Kong residents shall have freedom of speech, of the press and publication; freedom of association, of assembly, of procession and of demonstration; and the right and freedom to form and join trade unions, and to strike''.

(8) According to Article 32 of the Basic Law: ''Hong Kong residents shall have freedom of religious belief and freedom to preach and to conduct and participate in religious activities in public''.

(9) According to Article 34 of the Basic Law: ''Hong Kong residents shall have freedom to engage in academic research, literary and artistic creation, and other cultural activities''.

(10) According to Article 39 of the Basic Law: ''The provisions of the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and international labour conventions as applied to Hong Kong shall remain in force and shall be implemented through the laws of the Hong Kong Special Administrative Region''.

(11) President Jiang Zemin of the People's Republic of China, in his statement of July 1, 1997, at the ceremony in Hong Kong marking the establishment of the Hong Kong Special Administrative Region, said that ''... Hong Kong will enjoy a high degree of autonomy as provided for by the Basic Law, which includes the executive, legislative and independent judicial power, including that of final adjudication''.

(12) President Jiang further said that the Hong Kong Special Administrative Region has the ''ultimate aim of electing the Chief Executive and the Legislative Council by universal suffrage''.

(13) President Jiang further said that ''[n]o central department or locality (of the People's Republic of China) may or will be allowed to interfere in the affairs which, under the Basic Law, should be administered by the Hong Kong Special Administrative Region on its own''.

(14) President Jiang further said that ''the provisions of the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and international covenants as applied to Hong Kong shall remain in force to be implemented through the laws of Hong Kong's regional legislation''.

(15) President Jiang further said that adherence to these principles ''serves Hong Kong, serves the (People's Republic of China) and serves the entire nation as well. Therefore there is no reason whatsoever to change them. Here I want to reaffirm that 'one country, two systems, Hong Kong administering Hong Kong' and 'a high degree of autonomy' will remain unchanged for 50 years''.

(16) President Jiang, in another statement of July 1, 1997, at a rally in Beijing marking the establishment of the Hong Kong Special Administrative Region, said that the People's Republic of China ''will unswervingly carry out the principles of 'one country, two systems', 'Hong Kong people administering Hong Kong' and 'high degree of autonomy', and make sure that the previous socio-economic system and way of life of Hong Kong remain unchanged and that laws previously in force will remain basically unchanged. We will firmly support the Hong Kong SAR in its exercise of the functions and powers bestowed on it by the Basic Law and the Hong Kong SAR Government in its administration in accordance with law.''.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the statements of President Jiang Zemin of the People's Republic of China constitute a welcome reaffirmation of the obligations of the People's Republic of China under the Joint Declaration to ensure that Hong Kong remains autonomous, the human rights of the people of Hong Kong remain protected, and the government of the Hong Kong Special Administrative Region is elected democratically; and

(2) the fulfillment by the People's Republic of China of the obligations under the terms of the Joint Declaration and the Basic Law constitutes a crucial test of Beijing's ability to play a responsible global role.

(c) DEFINITIONS.—In this section:

(1) BASIC LAW.—The term ''Basic Law'' means the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, as adopted on April 4, 1990, by the Seventh National People's Congress of the People's Republic of China.

(2) JOINT DECLARATION.—The term ''Joint Declaration'' means the Joint Declaration of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China on the Question of Hong Kong, done at Beijing on December 19, 1984.

TITLE III—NATIONAL SECURITY MATTERS

SEC. 301. FINDINGS ON THE PROLIFERATION OF BALLISTIC MISSILES BY THE PEOPLE'S REPUBLIC OF CHINA.

Congress makes the following findings regarding the proliferation of ballistic missiles by the People's Republic of China:

(1) In December 1992, the Government of the People's Republic of China violated the Arms Export Control Act and the Export Administration Act of 1979 with the transfer by the Ministry of Aerospace Industry of approximately 24 M–11 missiles to Sargodha Air Force Base in Pakistan.

(2) From September 1994 to June 1996, the Government of the People's Republic of China again violated the Arms Export Control Act and the Export Administration Act of 1979 with the transfer by the Ministry of Aerospace Industry of as many as 30 M–11 ballistic missiles to Sargodha Air Force Base.

(3) In June 1995, the Government of the People's Republic of China violated the Arms Export Control Act and the Export Administration Act of 1979 with the transfer by the Chinese Aerospace Corporation to Iran of possibly hundreds of missile guidance systems and computerized machine tools for the production of ballistic missiles.

(4) In August 1996, the Government of the People's Republic of China violated the Arms Export Control Act and the Export Administration Act of 1979 with the transfer to Pakistan of factory plans and equipment capable of constructing a ballistic missile factory.

(5) In August 1996, the Government of the People's Republic of China violated the Arms Export Control Act, the Export Administration Act of 1979, and the Iran-Iraq Arms Non-Proliferation Act of 1992 with the transfer by the China Precision Engineering Institute to Iran's Defense Industries of gyroscopes, accelerometers, and test equipment for the construction and test of ballistic missile guidance systems.

(6) It has been reported that the Central Intelligence Agency discovered a shipment by the People's Republic of China to the Syrian Scientific Studies and Research Center, a Syria Government agency that oversees missile development, of guidance equipment for M–11 ballistic missiles. This alleged shipment would be a violation of the Missile Technology Control Regime. This alleged shipment would have taken place after the limited sanctions imposed by the United States on the People's Republic of China for shipments of M–11 missiles and components to Pakistan had been lifted following the assurances of the Government of the People's Republic of China that it would comply with the Missile Technology Control Regime.

(7) After each of these violations, the President either failed to take appropriate actions to deter future violations of such Acts and the Regime, took the least onerous action against the Government of the People's Republic of China that was possible under such Acts and the Regime, or rescinded previous actions thereby diluting or eliminating the deterrent effect of sanctions under such Acts and the Regime with respect to the Government of the People's Republic of China.

(8) This inaction forces Congress to take affirmative action in the bilateral relations between the United States and the People's Republic of China in order to respond sufficiently to these violations of United States law.

SEC. 302. FINDINGS ON THE PROLIFERATION OF WEAPONS OF MASS DESTRUCTION BY THE PEOPLE'S REPUBLIC OF CHINA.

Congress makes the following findings regarding the proliferation of weapons of mass destruction by the People's Republic of China:

(1) In January 1996, the Government of the People's Republic of China violated the Arms Export Control Act, the Nuclear Proliferation Prevention Act of 1994, and the Export-Import Bank Act of 1945 with the transfer by the China Nuclear Energy Industry Corporation to the Abdul Qadeer Khan Research Laboratory in Kahuta, Pakistan, of as many as 5,000 ring-magnets for the extraction of enriched uranium for the potential use in nuclear weapons.

(2) In September 1996, the Government of the People's Republic of China violated the Arms Export Control Act, the Export Administration Act of 1979, and the Nuclear Proliferation Prevention Act of 1994 with the transfer by the China Nuclear Energy Industry Corporation to a nuclear reactor facility in Khushab, Pakistan, of an industrial furnace and special diagnostic equipment capable of converting plutonium and uranium to weapons grade material.

(3) In March 1996, the Government of the People's Republic of China violated the Arms Export Control Act, the Export Administration Act of 1979, the Iran-Iraq Arms Non-Proliferation Act of 1992, and Executive Order 12938 with the transfer by the Jiangsu Corporation to Iran organizations affiliated with the Iranian Defense Industries Organization and the Revolutionary Guards of virtually complete chemical weapons production facilities.

(4) After each of these violations, the President either failed to take any action to deter future violations of such Acts or took such trifling action as to have no meaning or effect on the future proliferation of weapons of mass destruction by the People's Republic of China.

(5) This inaction forces Congress to take affirmative action in the bilateral relations between the People's Republic of China and the United States in order to respond sufficiently to these violations of United States law.

SEC. 303. FINDINGS ON THE PROLIFERATION OF DESTABILIZING ADVANCED CONVENTIONAL WEAPONS BY THE PEOPLE'S REPUBLIC OF CHINA.

Congress makes the following findings regarding the proliferation of destabilizing advanced conventional weapons by the People's Republic of China:

(1) In January 1996, the Government of the People's Republic of China violated the Iran-Iraq Arms Non-Proliferation Act of 1992 with the transfer by the Chinese Precision Machinery Import-Export Corporation to the Iran military of 60 C–802 advanced anti-ship missiles and 20 Houdong fast-attack patrol craft, 15 of which were equipped with C–802 missiles.

(2) In test firings of this missile from land-based batteries and from naval vessels, and test firings of a similar missile from fighter aircraft, the Iran Government claimed direct hits on the intended targets. This operational ability restores an anti-surface warfare capability lost by the Iran military during the Iran-Iraq War.

(3) The Commander of the United States Fifth Fleet commented that these missiles represented a new dimension to the threat faced by the United States Navy, stating ''[i]t used to be we just had to worry about land-based cruise missiles. Now [the Iranians] have the potential to have that throughout the [Persian] Gulf mounted on ships.''.

(4) It was reported in numerous press sources that the Department of Defense found these transfers destabilizing, and pressed for the imposition of sanctions under the Iran-Iraq Arms Non-Proliferation Act of 1992 but that the Department of State did not wish to impose such sanctions for fear of damaging bilateral relations between the People's Republic of China and the United States.

(5) The Iran-Iraq Arms Non-Proliferation Act of 1992 does not differentiate between transfers of destabilizing weapons that will and will not damage bilateral relations. Any determination of whether to impose sanctions on the People's Republic of China for this transfer should have been made strictly on the basis whether this transfer was or was not destabilizing.

(6) In light of these reports, it is likely that sanctions would have been imposed if the Clinton Administration had been more concerned with the stability of the region and the security of United States troops than with the maintenance of cordial relations between the People's Republic of China and the United States.

(7) This inaction forces Congress to take affirmative action in the bilateral relations between the People's Republic of China and the United States in order to respond sufficiently to this violation of United States law.

SEC. 304. FINDINGS ON THE EVASION OF UNITED STATES EXPORT CONTROL LAWS BY THE PEOPLE'S REPUBLIC OF CHINA.

Congress makes the following findings regarding the evasion of United States export control laws by the People's Republic of China:

(1) On November 14, 1994, the President issued Executive Order 12938, relating to the emergency regarding weapons of mass destruction, declaring that the proliferation of weapons of mass destruction and the means of delivering them constitute ''an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States'' and that he had therefore decided to ''declare a national emergency to deal with that threat''.

(2) The President reaffirmed Executive Order 12938 on November 15, 1995, and again on November 11, 1996.

(3) The Director of Central Intelligence stated in the report entitled ''The Acquisition of Technology Relating to Weapons of Mass Destruction and Advanced Conventional Munitions'' that, from July to December 1996, ''China was the most significant supplier of W[eapons of] M[ass] D[estruction]-related goods and technology to foreign countries.''.

(4) United States supercomputers are the computer of choice for the nuclear weapons agencies of the People's Republic of China as highlighted by the comments of the Chinese Academy of Sciences, an agency known to work on nuclear weapons development, that its United States-built supercomputer provides the Academy with ''computational power previously unknown'' and is available to ''all the major scientific and technological institutes across China''.

(5) The People's Republic of China has consistently provided technical and scientific assistance for the development of nuclear weapons to both Iran and Pakistan, and it is illogical to believe that such assistance would not also include computational assistance if needed.

(6) According to the Under Secretary of Commerce for Export Administration, 47 United States high-performance supercomputers were exported to the People's Republic of China between January 1996 and March 1997. Press reports indicate United States intelligence sources consider the actual number of such supercomputers exported to the People's Republic of China during that period to have been in the hundreds.

(7) Current United States export regulations require an export license for shipments of supercomputers to the People's Republic of China only if the end-use will be militarily related. However, the determination of that end-use is left to the exporter, thereby providing an incentive for inadequate investigations of the end-use of supercomputers exported to the People's Republic of China.

(8) The Department of Commerce has initiated investigations of United States supercomputer manufacturers who, as last as June 1996, allegedly sold supercomputers to the Chinese Academy of Sciences, which also administers research in nuclear weapons and missiles, in violation of existing United States export control regulations relating to supercomputers.

(9) On 14 July 1997, the ''China Daily'', the newspaper of the Government of the People's Republic of China, stated that ''China will open up its defense sector to foreign investors'' by ''strengthening international military-related electronic technology exchanges'' and that ''China's defense-related electronics should no longer be hidden from foreign investors''.

(10) It was exactly this concern of diversion to military end-use and to third nation proliferators that prompted the President, on June 16, 1997, to tighten export controls for supercomputers so as to address the concern of ''[t]he potential diversion to military use of technology acquired'' through experience developed in operating supercomputers and customizing software and the concern that ''the People's Republic of China may transfer advanced-weapons related technology to other countries, as in the case of ballistic missile transfers''.

(11) Throughout this period, the President has consistently acted in a manner so as to loosen controls on the export of supercomputers from the United States and thereby make it easier for the Government of the People's Republic of China to divert United States supercomputers to military end-uses and to assist in the proliferation of weapons of mass destruction.

(12) This inaction forces Congress to take affirmative action in the bilateral relations between the People's Republic of China and the United States in order to respond sufficiently to these violations of United States law.

SEC. 305. FINDINGS ON THE INCONSISTENT APPLICATION OF UNITED STATES EXPORT CONTROL LAWS TO THE PEOPLE'S REPUBLIC OF CHINA AND HONG KONG.

Congress makes the following findings regarding the inconsistent application of United States export control laws to the People's Republic of China and Hong Kong:

(1) While Hong Kong was sovereign territory of the United Kingdom, United States control of United States exports to Hong Kong of items listed on the United States Munitions List and the Commerce Control List was considerably more lax than United States control of exports of such items to the People's Republic of China.

(2) On June 19, 1997, at a time when Hong Kong was still territory of the United Kingdom, the Department of Commerce discovered that a supercomputer exported to a Hong Kong based company without the need of an export license because it was being exported to Hong Kong was reexported to a defense research institute in Changsha, People's Republic of China.

(3) A Federal grand jury is currently investigating the 1995 diversion by the Government of the People's Republic of China to military aviation production of aircraft machining equipment that was originally exported from the United States for civilian end-use.

(4) The People's Republic of China is the only country which does not allow United States officials to investigate the final end-use of exported technology and recently refused United States requests to examine the location of the supercomputer diverted from Hong Kong.

(5) The continuation of this inconsistent export control regime without specific assurances and verification measures to prevent unauthorized reexport from Hong Kong, or diversion to military end-use, provides the Government of the People's Republic of China with the means to circumvent United States export controls and gain access to critical technology necessary both for defense modernization and the proliferation of ballistic missiles and weapons of mass destruction.

(6) This inaction forces Congress to take affirmative action in the bilateral relations between the People's Republic of China and the United States in order to respond sufficiently to these violations of United States law.

SEC. 306. EXPORTS OF SUPERCOMPUTERS TO THE PEOPLE'S REPUBLIC OF CHINA.

(a) PRIOR APPROVAL OF EXPORTS AND REEXPORTS.—The President shall require that no covered computer may be exported or reexported to the People's Republic of China without the prior written approval of each of the designated officials.

(b) EXPORT OR REEXPORT WITHOUT UNANIMOUS APPROVAL.—If any one of the designated officials does not approve of the export or reexport of a covered computer to the People's Republic of China, the computer may be exported or reexported to the People's Republic of China only pursuant to a license issued by the Secretary of Commerce under the export administration regulations of the Department of Commerce, and without regard to the licensing exceptions otherwise authorized under section 740.7 of title 15, Code of Federal Regulations, as in effect on June 10, 1997.

(c) DEADLINE FOR RESPONSE TO APPLICATION.—Each designated official shall approve or disapprove in writing of the export or reexport of a covered computer to the People's Republic of China not later than 10 days after receipt by the United States of the application for the export or reexport of the computer.

(d) DEFINITIONS.—In this section:

(1) COVERED COMPUTERS.—The term ''covered computers'' means the digital computers listed as ''eligible computers'' in section 740.7(d)(2) of title 15, Code of Federal Regulations, as in effect on June 10, 1997.

(2) DESIGNATED OFFICIALS.—The term ''designated officials'' means the following:

(1) The Secretary of Commerce.

(2) The Secretary of Defense.

(3) The Secretary of Energy.

(4) The Secretary of State.

(5) The Director of the Arms Control and Disarmament Agency.

SEC. 307. DUAL-USE EXPORTS TO HONG KONG.

(a) IN GENERAL.—Notwithstanding any other provision of law, the provisions of this section shall apply with respect to exports of covered items to Hong Kong.

(b) PRE-LICENSE VERIFICATIONS.—The Secretary of State and the Secretary of Commerce shall not approve an export license application for the export of a covered item to Hong Kong if United States officials are denied an opportunity to conduct a pre-license verification with respect to the end-use of such covered item and the recipient of such item.

(c) POST-SHIPMENT VERIFICATION.—If United States officials are denied the ability to a conduct post-shipment verification of the location, recipient, and end use of a covered item that has been exported to Hong Kong from the United States pursuant to an export license granted by the Secretary of State and the Secretary of Commerce, thereafter any application to export a covered item to Hong Kong shall be treated in the same manner as a request to export such item to the People's Republic of China.

(d) DIVERSION OF COVERED ITEMS.—If the President, or any other official of the United States, obtains credible evidence that a covered item exported from the United States to Hong Kong on or after July 1, 1997, has been diverted—

(1) to the People's Republic of China;

(2) to an end use not authorized under the export control laws or regulations of the United States, or

(3) to a recipient, other than the recipient specified in the export license application,

any application to export a covered item to Hong Kong that is pending or filed after the date on which such evidence is obtained shall be treated in the same manner as a request to export such item to the People's Republic of China.

(e) COVERED ITEM DEFINED.—In this section, the term ''covered item'' means the following:

(1) Any item on the United States Munitions List.

(2) Any item on the Commerce Control List of the Department of Commerce.

SEC. 308. ENFORCEMENT OF IRAN-IRAQ ARMS NON-PROLIFERATION ACT WITH RESPECT TO THE PEOPLE'S REPUBLIC OF CHINA.

(a) STATEMENT OF POLICY.—It shall be the policy of the United States that—

(1) the delivery of 60 C–802 cruise missiles by the China National Precision Machinery Import Export Corporation to Iran poses a new, direct threat to deployed United States forces in the Middle East and materially contributed to the efforts of Iran to acquire destabilizing numbers and types of advanced conventional weapons; and

(2) the delivery is a violation of the Iran-Iraq Arms Non-Proliferation Act of 1992 (50 U.S.C. 1701 note).

(b) IMPLEMENTATION OF SANCTIONS.—

(1) REQUIREMENT.—The President shall impose on the People's Republic of China the mandatory sanctions set forth in paragraphs (3), (4), and (5) of section 1605(b) of the Iran-Iraq Arms Non-Proliferation Act of 1992.

(2) NONAVAILABILITY OF WAIVER.—For purposes of this section, the President shall not have the authority contained in section 1606 of the Iran-Iraq Arms Non-Proliferation Act of 1992 to waive the sanctions required under paragraph (1).

SEC. 309. TRANSFERS OF SENSITIVE EQUIPMENT AND TECHNOLOGY BY THE PEOPLE'S REPUBLIC OF CHINA.

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

(1) Credible allegations exist that the People's Republic of China has transferred equipment and technology as follows:

(A) Gyroscopes, accelerometers, and test equipment for missiles to Iran.

(B) Chemical weapons equipment and technology to Iran.

(C) Missile guidance systems and computerized machine tools to Iran.

(D) Industrial furnace equipment and high technology diagnostic equipment to a nuclear facility in Pakistan.

(E) Blueprints and equipment to manufacture M–11 missiles to Pakistan.

(F) M–11 missiles and components to Pakistan.

(2) The Department of State has failed to determine whether most such transfers violate provisions of relevant United States laws and Executive orders relating to the proliferation of sensitive equipment and technology, including the Arms Export Control Act, the Nuclear Proliferation Prevention Act of 1994, the Export Administration Act of 1979, and the Export-Import Bank Act of 1945, and Executive Order 12938.

(3) Where the Department of State has made such determinations, it has imposed the least onerous form of sanction, which significantly weakens the intended deterrent

effect of the sanctions provided for in such laws.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the transfers of equipment and technology by the People's Republic of China described in subsection (a)(1) pose a threat to the national security interests of the United States;

(2) the failure of the Clinton Administration to initiate a formal process to determine whether to impose sanctions for such transfers under the provisions of law referred to in subsection (a)(2) contributes to the threat posed to the national security interests of the United States by the proliferation of such equipment and technology; and

(3) the President should immediately initiate the procedures necessary to determine whether sanctions should be imposed under such provisions of law for such transfers.

(c) REPORT.—

(1) REQUIREMENT.—Not later than 60 days after the date of enactment of this Act, the President shall submit to Congress a report setting forth—

(A) the date, if any, of the commencement and of the conclusion of each formal process conducted by the Department of State to determine whether to impose sanctions under the provisions of law referred to in subsection (a)(2) for each transfer described in subsection (a)(1);

(B) the facts providing the basis for each determination not to impose sanctions under such provisions of law on the Government of the People's Republic of China, or entities within or having a relationship with that government, for each transfer, and the legal analysis supporting such determination; and

(C) a schedule for initiating a formal process described in paragraph (1) for each transfer not yet addressed by such formal process and an explanation for the failure to commence such formal process with respect to such transfer before the date of the report.

(2) FORM.—The report shall be submitted in unclassified form, but may include a classified annex.

SEC. 310. ANNUAL REPORTS ON ACTIVITIES OF THE PEOPLE'S LIBERATION ARMY.

(a) ENTITIES OWNED BY PLA.—Not later than January 31 each year, the Secretary of State shall publish in the Federal Register a list of each corporation or other business entity that was owned in whole or in part by the People's Liberation Army of the People's Republic of China as of December 31 of the preceding year.

(b) REPORT ON PRC MILITARY MODERNIZATION.—

(1) REQUIREMENT.—

(A) IN GENERAL.—Not later than March 31 each year, the Secretary of Defense, in consultation with the Secretary of State, shall submit to Congress a report on the military modernization activities of the People's Liberation Army.

(B) SUBMITTAL.—The Secretary of Defense shall submit each report to the following:

(i) The Majority leader and Minority leader of the Senate.

(ii) The chairmen and ranking members of the Committee on Foreign Relations and the Committee on Armed Services of the Senate.

(iii) The Speaker and Minority leader of the House of Representatives.

(iv) The chairmen and ranking members of the Committee on International Relations and the Committee on National Security of the House of Representatives.

(C) FORM.—The report shall be submitted in unclassified form, but may include a classified annex.

(2) CONTENTS OF REPORT.—

(A) CONTENTS.—Each report under paragraph (1) shall include the following:

(i) A description of developments within the People's Liberation Army, including the implications of the developments for United States policy toward the People's Republic of China.

(ii) A description of the scope and pace of modernization by the People's Liberation Army.

(iii) To the maximum extent practicable, an analysis of the intent of such modernization programs.

(B) RELATIONSHIP TO ANNUAL HUMAN RIGHTS REPORT.—The report shall complement and not replace applicable sections of the annual report on human rights in China by the Department of State.

(c) PROTECTION OF SOURCES AND METHODS.—In publishing a list under subsection (a) and preparing a report under subsection (b), the Secretary of Defense shall take appropriate actions to ensure the protection of sources and methods of gathering intelligence.

SEC. 311. ANNUAL REPORTS ON INTELLIGENCE ACTIVITIES OF THE PEOPLE'S REPUBLIC OF CHINA.

(a) REPORTS.—

(1) IN GENERAL.—Not later than March 31 each year, the Director of Central Intelligence and the Director of the Federal Bureau of Investigation, jointly and in consultation with the heads of other appropriate Federal agencies (including the Departments of Defense, Justice, Treasury, and State), shall submit to the Members of Congress referred to in paragraph (2) a report on the intelligence activities of the People's Republic of China directed against or affecting the interests of the United States.

(2) SUBMITTAL.—Each report under paragraph (1) shall be submitted to the following:

(A) The Majority leader and Minority leader of the Senate.

(B) The chairman and ranking member of the Select Committee on Intelligence of the Senate.

(C) The Speaker and Minority leader of the House of Representatives.

(D) The chairman and ranking member of the Permanent Select Committee on Intelligence of the House of Representatives.

(3) FORM.—Each report shall be submitted in unclassified form, but may include a classified annex.

(b) CONTENTS OF REPORTS.—Each report under subsection (a) shall include information concerning the following:

(1) Political and military espionage.

(2) Intelligence activities designed to gain political influence, including activities undertaken or coordinated by the United Front Work Department of the Chinese Communist Party.

(3) Efforts to gain direct or indirect influence through commercial or noncommercial intermediaries subject to control by the People's Republic of China, including enterprises controlled by the People's Liberation Army.

(4) Disinformation and press manipulation by the People's Republic of China with respect to the United States, including activities undertaken or coordinated by the United Front Work Department of the Chinese Communist Party.

SEC. 312. STUDY OF THEATER BALLISTIC MISSILE DEFENSE SYSTEM FOR TAIWAN.

(a) STUDY.—The Secretary of Defense shall carry out, with appropriate representatives of the Government of Taiwan, a study of the architecture requirements for the establishment and operation of a theater ballistic missile defense system for Taiwan, including the Penghu Islands, Kinmen, and Matsu. The study shall include the following:

(1) An assessment of missile threats to Taiwan.

(2) Identification of the requirements of Taiwan for deployment of an effective theater ballistic missile defense system.

(3) Identification of existing theater ballistic missile defense systems or existing technology for such systems, that the United States could sell to Taiwan to assist in meeting the requirements identified under paragraph (2).

(4) Systems or technologies the United States is developing that could address the missile threats to Taiwan's security.

(5) Identification of potential joint cooperative efforts by the United States and Taiwan to develop theater ballistic missile defense systems.

(b) SUBMITTAL TO CONGRESS.—

(1) SUBMITTAL.—Not later than July 1, 1998, the Secretary of Defense shall submit to the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on National Security and the Committee on Appropriations of the House of Representatives a report on the study conducted under subsection (a).

(2) FORM.—The report shall be submitted in unclassified form, but may include a classified annex.

SEC. 313. SENSE OF CONGRESS REGARDING UNITED STATES FORCE LEVELS IN ASIA.

It is the sense of Congress that—

(1) the current force levels in the Pacific Command Theater of Operations are necessary to the fulfillment of the military mission of that command and are vital to continued peace and stability in the region covered by that command;

(2) any reductions in such force levels should only be done in close consultation with Congress and with a clear understanding of their impact upon the capacity of the United States to fulfill its current treaty obligations with other states in the region as well as to the continued ability of the United States to deter potential aggression in the region; and

(3) the annual report on the national security strategy of the United States required by section 108 of the National Security Act of 1947 (50 U.S.C. 404a) should include specific information on the adequacy of the capabilities of the United States Armed Forces to support the implementation of the national security strategy of the United States as it relates to the People's Republic of China.

SEC. 314. SENSE OF CONGRESS REGARDING ESTABLISHMENT OF COMMISSION ON SECURITY AND COOPERATION IN ASIA.

It is the sense of Congress that the President and the Secretary of State should initiate negotiations with the Government of the People's Republic of China and the governments of other countries in Asia to establish a commission on matters relating to security and cooperation in Asia that would be modeled after the Commission on Security and Cooperation in Europe.

TITLE IV—TRADE

SEC. 401. SENSE OF CONGRESS REGARDING THE ACCESSION OF TAIWAN TO THE WORLD TRADE ORGANIZATION.

It is the sense of Congress that Taiwan should be admitted to the World Trade Organization as a separate customs territory when Taiwan meets the established criteria of the Organization for membership on that basis.

TITLE V—HUMAN RIGHTS AND RELIGIOUS FREEDOM WORLDWIDE

SEC. 501. TRAINING FOR IMMIGRATION OFFICERS REGARDING RELIGIONS PERSECUTION.

Section 235 of the Immigration and Nationality Act (8 U.S.C. 1225) is amended by adding at the end the following:

''(e) TRAINING ON RELIGIOUS PERSECUTION.—The Attorney General shall establish and operate a program to provide to immigration officers performing functions under subsection (b), or section 207 or 208, training on religious persecution, including training on—

''(1) the fundamental components of the right to freedom of religion;

''(2) the variation in beliefs of religious groups; and

''(3) the governmental and nongovernmental methods used in violation of the right to freedom of religion.''.

SEC. 502. PROMOTION OF RELIGIOUS FREEDOM AND HUMAN RIGHTS WORLDWIDE.

(a) REPORTS ON RELIGIOUS PERSECUTION.—

(1) REPORTS.—Not later than March 30, 1998, and annually thereafter, the Secretary of State shall submit to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives a report on religious persecution worldwide.

(2) CONTENTS.—Each report shall include a list of the government officials of any country worldwide who have been materially involved in the commission of acts of persecution that are motivated by a person's religion.

(b) PRISONER INFORMATION REGISTRY.—

(1) ESTABLISHMENT.—The Secretary of State shall establish and maintain a registry to be known as the Prisoner Information Registry.

(2) CONTENTS.—The registry shall be a repository of information on matters relating to the penal systems of the various countries and of individuals in such systems, including—

(A) the charges brought against the individuals in such systems;

(B) the judicial or administrative processes to which such individuals were subject;

(C) the length of imprisonment of such individuals in such systems;

(D) the use (if any) of forced labor in such systems;

(E) the incidences (if any) of torture in such systems;

(F) the physical and health conditions in such systems; and

(G) such other matters as the Secretary considers appropriate.

(3) ALLOCATION OF RESOURCES.—The Secretary may make funds available to non-governmental organizations currently engaged in monitoring penal systems worldwide or individuals in such systems in order to assist in the establishment and maintenance of the registry.

TITLE VI—OTHER MATTERS

SEC. 601. TERMINATION OF UNITED STATES ASSISTANCE FOR EAST-WEST CENTER.

(a) REPEAL OF AUTHORIZATION OF ASSISTANCE.—The Center for Cultural and Technical Interchange Between East and West Act of 1960 (chapter VII of Public Law 86–472; 22 U.S.C. 2054 et seq.) is repealed.

(b) PROHIBITION ON USE OF FUNDS FOR CENTER.—Notwithstanding any other law, no funds appropriated or otherwise made available to the Director of the United States Information Agency for any fiscal year after fiscal year 1997 may be used for any purposes (including grants and payments and expenses of operation) relating to the Center for Cultural and Technical Interchange Between East and West.

SUMMARY OF THE CHINA POLICY ACT OF 1997

TITLE I: SANCTIONS

• Deny visas to Chinese Government officials involved in political and religious persecution. This measure would deny visas to high ranking officials who are employed by the Public Security Bureau (the state police), the Religious Affairs Bureau, China's family planning apparatus, the People's Liberation Army (PLA), and those found to be materially involved in the ordering or carrying out of the massacre of Chinese students in Tiananmen Square. The President is granted waiver authority that can be exercised, in writing, each time a proscribed individual is to enter this country that explains why awarding such visas overrides United States concerns about China's human rights practices past and present.

• Require U.S. Representatives at multilateral banks to vote ''no'' on loans to China. Exception for loans related to environmental improvements and safeguards, famine, and natural disaster relief. China received approximately $3 billion in World Bank loans in the most recent fiscal year. While receiving this foreign aid, the Chinese military budget increased by 12.7 percent. Between 1985 and 1995 the United States supported 111 of 183 loans approved by the World Bank Group and 15 of 92 loans that the Asian Development Bank approved. The bill also requires the Secretary of Treasury to oppose and instruct the U.S. executive director of the World Bank to oppose any change in the World Bank's rules that limit the total share of the bank's lending that can be made in any one country.

• Require the President to begin consultations with major United States allies and trading partners to encourage them to adopt similar measures contained in this bill and to work with our allies to vote against loans for China at multilateral development banks. Within 60 days of a G–7 meeting, the President shall submit a report to Congress on the progress of this effort.

• Targeted sanctions against People's Liberation Army (PLA) companies involved in the illegal sale of AK–47 rifles in the United States. China North Industries Group (NORINCO) and the PLA-owned company China Poly Group (POLY) will be prohibited from (1) exporting to, and maintaining a physical presence in, the United States; (2) receiving loans from the Export-Import Bank; and (3) receiving contracts for goods or services from the U.S. Government for a period of one year. The attempted illegal sale of AK–47 machine guns to street gangs in California warrant these targeted sanctions against these firms.

• The bill establishes a mechanism to apply sanctions on additional PLA companies based on certain specific actions, including weapons proliferation, illegal arms sales in U.S., and military and political espionage in the United States. The Director of Central Intelligence and the Director of the Federal Bureau of Investigation, in separate annual reports, shall identify entities owned in part or wholly by the People's Liberation Army who have engaged in proliferation of nuclear or chemical weapons, the illegal importation of weapons to the United States, or unlawful military intelligence collection or espionage in the United States. Such entities will be prohibited from exporting to, or maintaining a physical presence in the United States, receiving loans from the Export-Import Bank, and receiving contracts from the United States Government for a period of 1 year.

• Sanctions remain in effect for 5 years. The bill includes a Sense of Congress that the sanctions in the China Policy Act shall be reviewed by Congress within the 5 year period upon the occurrence of one or more of the following events: (1) People's Republic of China's entry into the WTO on commercially viable terms; (2) President's certification of PRC's full implementation of international proliferation standards and agreements; (3) President's certification that PRC is actively and effectively combating all forms of religious persecution; (4) PRC re-evaluation of Tiananmen Square massacre; (5) Publication by the PRC of a National Security White Paper describing its intentions internationally; or (6) President's certification that the PRC has taken concrete steps towards improving overall human rights conditions in China and Tibet, including the release of political prisoners; improving prison conditions and providing prisoners with adequate medical care; and full compliance with the international human rights accords to which the PRC is a signatory.

TITLE II: HUMAN RIGHTS, RELIGIOUS FREEDOM, AND DEMOCRACY

• Congressional findings detailing the Chinese Government's jailing of political dissidents, persecution of religious groups, human rights violations in Tibet and coercive family planning practices.

• Combats slave labor and ''reeducation'' centers. The bill calls for stricter enforcement of the ban against the sale of products produced in slave labor camps; appropriations to United States Customs to increase monitoring; require reporting and advocacy requirements; and a Sense of Congress urging renegotiation of prison labor memorandum of understanding with China.

• Authorize an additional $5 million for international broadcasting to China, including Radio Free Asia and the Voice of America to expand broadcast hours in multiple Chinese dialects, Tibetan, and other languages spoken in China.

• Authorize additional $2 million in funding for National Endowment for Democracy programs in China.

• Authorize additional $2 million of funding for existing United States Information Agency student, cultural, and legislative exchange programs between the U.S. and China.

• Terminate the East-West Center. This center funds cooperative programs of study, research and training between the U.S. and Asian Pacific nations. However, the resources of the State Department, which maintains a network of embassies and consulates in Asian Pacific countries, should be more than sufficient to promote good relations with these countries. Eliminating this $10 million program offsets the spending increases proposed in the bill.

Require United States contractors who receive international family planning funds from the United States to report on their organization's activities in China.

Sense of Congress concerning multilateral efforts to address China's human rights record.

Sense of Congress that China should abide by the 1984 Sino-British Joint Declaration on Hong Kong.

TITLE III: NATIONAL SECURITY MATTERS

Congressional findings on PRC's proliferation of ballistic missiles, weapons of mass destruction, destabilizing advanced conventional weapons, and evasion of U.S. export controls.

Tighten United States export licensing requirements on super computers sold to China. Current regulation only requires an export license for mid-range supercomputers to countries such as China with only a certification, by the exporting firm, that the end-use is not military-related. This provision requires an export license for any mid-range supercomputers (currently 2000–7000 MTOP range, but amendable by the Secretary of Commerce) sold to China which the Departments of Defense, State, Energy, and Commerce, and the Arms Control and Disarmament Agency do not unanimously agree to export without a license. This provision is a modified version of the Spence-Dellums amendment to the House Fiscal Year 98 DoD Authorization bill.

Protects against dual-use export diversion from Hong Kong. The recent diversion of a Sun Microsystems supercomputer from a Hong Kong importer to a military end-user in the People's Republic of China highlights the potential problems with having dual-use technology exports to Hong Kong being treated more liberally than such exports to the PRC. This provision would deny licenses for export of items on the U.S. Munitions List and the Commerce Control List to Hong Kong if United States officials are denied access to conduct pre-license checks verifying the end-user. It will also require that if United States officials are denied access for post-shipment verification checks, or if an actual diversion of dual-use items takes place from Hong Kong to the PRC, then Hong Kong will thereafter be placed in the same export control category as the People's Republic of China.

A finding that China violated the Iran-Iraq Nonproliferation Act with the export of C–802 missiles to Iran, and a requirement on the implementation of this Act's sanctions. The Commander of the United States Navy's Fifth Fleet in the Persian Gulf has called the Iranian acquisition of C–802 cruise missiles a direct threat to the 15,000 US servicemen stationed in the area. Iran acquired these missiles from China, in direct contravention of the Iran-Iraq Nonproliferation Act (McCain-Gore Act). However, the Administration did not implement the sanctions called for in the Act.

Limiting transfers of sensitive equipment and technology by the People's Republic of China. Require within 60 days a report detailing State Department's sanctions determination process for each allegation against China in the area of proliferation, and a schedule for initiating sanctions determination process where the process has not been initiated.

Sunshine requirement on PLA companies. On an annual basis, the United States Government shall publish a list of all companies owned in part or wholly by the People's Liberation Army (PLA) of the People's Republic of China who export to, or have an office in, the United States. In addition, require a report on PLA military modernization.

Require enhanced monitoring of Chinese intelligence activities in the United States, including a report on such activities and a report on political and military espionage.

Require a bilateral United States-Taiwan study of establishing theater missile defense in the Pacific Rim.

Sense of the Congress that the current level of United States forces in Asia are vital to continued peace and stability in the region and should only be reduced with a clear understanding of their impact on United States treaty obligations and the continued ability of the United States to deter potential aggression in the region.

Sense of Congress that the President shall initiate negotiations with the PRC and other Asian countries to establish a ''Helsinki Commission'' for Asia.

TITLE IV: TRADE

Sense of Congress that Taiwan should enter the World Trade Organization (WTO) as soon as it meets the established criteria.

TITLE V: HUMAN RIGHTS AND RELIGIOUS FREEDOM WORLDWIDE

The legislation mandates additional and extensive training for United States asylum officers world-wide in recognizing religious persecution.

Enhanced reporting of human rights violations and religious persecution around the world. Increased publicizing of political and religious persecution world-wide through annual reports by the State Department, publication of list of individuals involved in religious persecution, and establishment of a Prisoner Information Registry.

Mr. ASHCROFT. Mr. President, I rise today in strong support of the China Policy Act of 1997. As an original cosponsor of the act, I believe this legislation provides the starting point for a much needed restructuring of United States-China relations. For too long, our approach to China has been one of passivity and appeasement. The Clinton administration seems willing to tolerate virtually any misbehavior—gross violations of human rights, arms deals with terrorist states, a headlong push to develop military capabilities that exceed any conceivable threat, even efforts to smuggle guns into the United States. This is no way to build a stable, peaceful, and constructive relationship.

Our legislation offers a dramatically different approach. Under this bill, when China violates standards of decency or endangers vital American interests, there will be a response that is swift, predictable, and appropriate. This legislation is an important first step toward a policy that rewards and encourages constructive behavior, and discourages questionable activity. It points the way to a new and better era in United States-China relations.

The 20th century has been the American century, and if the new century is to bear the same imprint, we must fashion a stable and constructive relationship with the People's Republic of China, which is pushing hard for global superpower status.

One specific provision I have included in this bill protects the United States from Chinese diversion of sensitive technology from Hong Kong. Hong Kong has abided by international export control regimes and has benefited from preferential access to sensitive U.S. technology—technology that can be used for military purposes.

My provision simply does the following: if China diverts controlled technology from Hong Kong, or if United States officials are denied the opportunity to conduct post-shipment checks on location and end use of controlled items, then the United States shall apply the stricter export controls to Hong Kong presently applied to the rest of China. In addition, if United States officials are denied an opportunity to conduct a prelicense check on the end use and end user of a controlled item, then the export license for that item shall be denied.

A May, 1997 GAO report on the export of controlled items to Hong Kong stated that effective monitoring is critical to prevent weapons and technology proliferation. The report identified pre-license checks and post-shipment verification as possible means to ensure the continued effectiveness of Hong Kong's export control system.

Now that Hong Kong has reverted to Chinese control, China undoubtedly will attempt to use the port to divert technology and proliferate weapons. Prosecutions for illegal shipments of arms-related commodities in Hong Kong have grown dramatically in recent years, from 65 cases in 1994 to 250 last year. One Hong Kong firm, Cheong Yee, was sanctioned by the United States last May for helping Iran obtain chemical weapons.

The technology flow to Hong Kong is a significant national security risk if China compromises the integrity of Hong Kong's export control system. Chinese front companies in Hong Kong already have been identified with efforts to acquire controlled technologies for illicit export to countries of proliferation concern, according to United States and Hong Kong officials. China has refused to sign many of the export control regimes by which Hong Kong historically has abided. The old restrictions are kept in place only from a sense of moral obligation, states Brian Lo, Hong Kong's chief trade-licensing officer.

Mr. President, moral obligation is flimsy stuff when you are dealing with the Communist leaders of Beijing. These are the leaders who attack their own young people in Tiananmen Square, persecute Christians, and proliferate weapons to terrorist states which target U.S. citizens around the world.

In the face of this growing proliferation risk, the Clinton administration has been relaxing America's export control regulations. Just this week, a bipartisan report issued by the House National Security Committee stated that the changes made to U.S. export controls contributed to the proliferation of weapons of mass destruction and their means of delivery as well as the development of advanced conventional weapons.

The number of export licenses reviewed each year for national security reasons has fallen from 150,000 in the mid-1980's to less than 8,000 today. The world may have become a safer place, but the international arena is still threatening.

Clearly, it is time for the United States to take aggressive steps which protect United States national security interests and limit the ability of potential enemies to develop weapons of mass destruction. I am proud to be a cosponsor of the China Policy Act and believe that the provisions contained therein make a significant contribution to the United States-China debate. I urge the Senate's prompt consideration and passage of this bill.

Mr. FEINGOLD. Mr. President, I join the Senator from Michigan [Mr. ABRAHAM] in introducing the China Policy Act of 1997. This is a bill that I am proud to cosponsor and one that will send a much-needed message to the leaders of the People's Republic of China. I commend the Senator from Michigan for his efforts.

The China Policy Act is an omnibus bill that covers a broad range of issues. This legislation will impose targeted sanctions against Chinese entities—

such as the military and public security apparatus—that are directly engaged in weapons proliferation and human rights abuses. In addition, this bill calls for tighter enforcement of various laws related to China, such as the ban on Chinese prison-labor goods and controls on the export of high-speed computers to China. The legislation also contains funding increases for student, cultural, and legislative exchanges between the United States and China.

The China Policy Act is designed to move Congress and the American public beyond the sometimes polarizing debate over China's most-favored-nation trade status, offering realistic alternatives to revoking MFN that merit broad bipartisan support.

As many of my colleagues know, I have been a strong opponent of granting MFN privileges to China and, in fact, have been an original cosponsor of the resolutions of disapproval for the past 3 years. I strongly believe that, in light of Beijing's egregious human rights record, China does not deserve to have such trade privileges with the United States. Ever since the administration delinked MFN and human rights in 1994, I have watched with alarm as the Chinese Government has heightened its political and religious persecution throughout the country.

But despite my strong views on the issue, I realize that the Congress has been unable to reach a consensus on whether MFN is the best tool to pressure China to make improvements in human rights. I know that many of my colleagues share my concerns over China's human rights record, but nevertheless feel that MFN is too blunt an instrument, especially for a nation as large and diverse as China.

But once you step away from the debate over the effectiveness of MFN, there is widespread agreement among Members of both the Senate and the House that the administration's current policy of constructive engagement toward China remains unsatisfactory.

I believe the administration is promoting engagement for engagement's sake, not as a way to halt the many offensive behaviors of the Chinese regime. I prefer to call the administration policy not ''constructive'' engagement but rather unconditional engagement.

No matter how uncooperative China is, the United States appears ready to continue business as usual with the Chinese regime. This is especially true with respect to human rights. Recent events paint a very bleak picture. In October of last year, a Chinese court sentenced Wang Dan—a leader of the Tiananmen Square protests—to 11 years in prison for peacefully expressing his prodemocracy beliefs. Seventy-six-year-old Bishop Zeng Jingmu has been sentenced to reeducation through labor for organizing religious ceremonies outside China's official Catholic Church. In Tibet, Chinese authorities have banned the display of the Dalai Lama's photograph and the State Department Human Rights Report cites three instances of Buddhist monks dying in Chinese prisons in 1996. Sadly, this represents on a tiny fraction of the human rights abuses that are taking place in China today. It would be impossible to name all of the people who are being kept behind bars for the expression of their political and religious beliefs.

Yet, even as the Chinese leadership continues to brutalize political dissidents and the people of Tibet, the administration is preparing to welcome China's President, Jiang Zemin, to the White House next month. What kind of message does this send?

The China Policy Act of 1997 represents the efforts of both pro- and anti-MFN Senators to find new ways to deal with the problems the United States currently faces in China.

And there is no shortage of problems.

I have already mentioned my primary concern, which is China's deplorable human rights record, but in addition, the Government of China continues to sell dangerous chemical and nuclear weapons technologies to terrorist and rogue regimes. China has used military intimidation to disrupt free elections in Taiwan and has harassed its neighbors in the South China Sea. Furthermore, we have all seen reports of Beijing's unfair trade practices and rampant copyright violations. This is what I refer to as a ''kaleidoscope'' of problems the United States has with China.

The China Policy Act of 1997 contains targeted sanctions aimed at the organizations most directly associated with China's poor behavior. For example, the bill contains provisions imposing comprehensive sanctions against enterprises run by the People's Liberation Army that have engaged in weapons smuggling or proliferation. The United States simply should refrain from doing business with companies that create security risks to our country.

This bill will also require the administration to deny United States visas to high-level Chinese officials directly connected with human rights violations and religious persecution. This provision expresses United States outrage at China's human rights abuses while still giving the President adequate waiver authority to conduct foreign policy.

I am particularly pleased this bill contains strong language on human rights, an area that has been a special focus of mine. The bill includes a provision stating that the administration needs to greatly increase multilateral efforts to condemn China's human rights record. As you know, Mr. President, this past April, the U.N. Human Rights Commission failed to pass a resolution criticizing China's human rights policies. Unfortunately, the United States only began lobbying for the resolution at the last moment and, as a result of this delay, many of our allies—including France, Germany, and Canada—would not cosponsor the motion. To make our China policy more effective, the United States must do a better job of coordinating with our allies in multilateral fora.

In addition to addressing a wide spectrum of issues in Sino-United States relations, the China Policy Act also gives the Senate—and the American people we represent—an important opportunity to have an extensive debate about China policy. Such a debate is long overdue, and has continued to be delayed because of the controversy surrounding MFN.

It is my view that the inability of Congress to reach a consensus on MFN has led the Chinese authorities to believe that they can continue to commit gross human rights violations without facing any consequences. Unfortunately, it may be that, until now, the Beijing leadership has been right. In China's eyes, Congress has become what Chairman Mao Zedong would have called a paper tiger, something that might act ferocious, but is, in fact, harmless.

However, once Congress steps out of the restrictive confines of the MFN debate, I think China will be surprised at the level of dissatisfaction in Congress toward Beijing's actions.

The Chinese Government will obviously condemn this legislation because it demands that Chinese leaders live up to the international and bilateral agreements on weapons-proliferation, human rights, and trade to which China is a party. The Beijing government categorically rejects any outside scrutiny of its policies and equates good relations with a complete lack of criticism. But truly close relations between two countries can only be built when both sides fulfill their obligations and act in good faith toward one another.

The China Policy Act of 1997 is intended to send a strong message that Chinese Government's actions on many fronts remains unacceptable. Unfortunately, Chinese leaders have not heard this message loudly or strongly enough in the past. They have not heard it from the U.N. Human Rights Commission. They have not heard it from our trade negotiators. And, until now, they have not heard it from the U.S. Congress.

It is my view that the time has come for us to send this message clearly.

I yield the floor.

By Mr. GRASSLEY:

S. 1165. A bill to apply rules regarding the conduct of meetings and recordkeeping under the Federal Advisory Committee Act to the Social Security Advisory Board and for other purposes; to the Committee on Finance.

THE SOCIAL SECURITY ADVISORY BOARD SUNSHINE ACT

Mr. GRASSLEY. Mr. President, today I rise to introduce the Social Security Advisory Board Sunshine Act. This legislation will apply the public meeting and disclosure requirements of

the Federal Advisory Committee Act to the Social Security advisory board.

The Social Security Advisory Board was created in 1994 when the Social Security Administration became an independent agency. Its purpose is to serve as an advisor to the Commissioner of the Social Security Administration, the President and the Congress. The 1994 law requires the Board to make recommendations on some of the most critical issues facing the Social Security Administration and the country, including: How to ensure economic security for Government retirement and disability programs; how to ensure the solvency of Social Security programs; how to improve the quality of service and the policies and regulations that influence that service; and how to increase the public's understanding of Social Security.

With such a significant mandate, the question we should be asking is not why have open meetings, but why not have open meetings? This Board has been entrusted with the responsibility of making policy recommendations regarding the largest domestic Government program in this country. Virtually every American is affected by Social Security. Every American has a stake in Social Security. They have the right to know what recommendations are being made and why. The Federal Advisory Committee Act, which became public law in 1972 is intended to promote good Government values, such as openness, accountability, and balance of viewpoints. At the heart of the matter is a desire to keep the channels open between Government and the interested public.

Yesterday, during the confirmation hearing for Ken Apfel for the position of Commissioner of the Social Security Administration, I asked him if bringing the Advisory Board under the Sunshine laws was a good idea. He said, ''I think sunshine is almost always a good idea.''

My legislation would require the Advisory Board to provide notice of all meetings, make available for public inspection all Advisory Board documents, provide opportunities for nonmembers to participate in Board meetings, keep minutes of those meetings, and make transcripts of Advisory Board meetings available. In addition, the Social Security Administration will be required to disclose the disbursement of money to, and the disposal of money by, the advisory Board.

My legislation would also provide for compensation of the board members. Board members are paid per diem travel expenses, but they receive no compensation for the time they take off work to attend the meetings, which are held once a month. Because they have been given charge of such an important task, and because of the homework that must be done in order for them to be prepared and participate in meetings, compensation commensurate with that of similar boards and committees is only fair.

I want to commend the Board on the work it has done so far, particularly to highlight the need to expand the Social Security Administration's policy analysis capabilities. Those capabilities will be very important as we jump start discussions about Social Security reform.

The Advisory Board will be undergoing some changes in membership in the near future. I intend to work at getting this legislation enacted as soon as possible so the change in membership will occur with a change in the philosophy that Government is best done in the open and not behind closed doors.

By Mr. CAMPBELL:

S. 1166. A bill to prevent Federal agencies from pursuing policies of unjustifiable nonacquiescence in, and relitigation of, precedents established in the Federal judicial circuits; to the Committee on the Judiciary.

THE FEDERAL AGENCY COMPLIANCE ACT

Mr. CAMPBELL. Mr. President, because the concept of nonacquiescence is so often mired and hidden in the bureaucratic processes of our Government agencies, few realize the magnitude of its true implications. I am extremely concerned that so many Federal agencies currently fail to comply with established case law when dealing with American's rights and legal claims. Instead, the very agencies whose function it is to serve the people of this country have been ignoring the law through the policy of nonacquiescence. Specifically, nonacquiescence occurs when an agency refuses to comply with judicial precedent and instead, relies on agency policy to determine the outcome of a claim. For example, if a beneficiary has a social security claim, the agency can rule against the claimant even if the judicial precedent in that circuit is entirely in favor of the beneficiary. Agency wins—claimant loses—end of story. The only recourse that beneficiary has is to relitigate that same issue in court. The beneficiary can't bypass the agency and go directly to court, because he or she must first exhaust all administrative remedies. This is an extremely expensive burden on any person with a claim against an agency. In fact, it is a financial burden on the entire judicial system and on the American taxpayer who eventually pays the cost of relitigation.

Stare decisis—''let the decision stand''—is the fundamental doctrine of law upon which our entire judicial system is based. It is a concept of fairness and equity that has withstood the test of time. We require the American people and courts to adhere to judicial precedent. This policy of nonacquiescence completely undermines that principle. It allows the agency to completely ignore judicial precedent and instead rely solely on agency interpretation. The most glaring examples of nonacquiescence have surfaced in a select few agencies, such as the Social Security Administration, the National Labor Relations Board, and the Internal Revenue Service. This year alone, the Social Security Administration itself indicates that tens of thousands of claims involving nonacquiescence may be litigated. In a recent judicial opinion, the appellate judge stated that ''if a [social security] claimant has the determination and financial and physical strength and lives long enough to make it through the administrative process he can turn to the courts * * *'' and ultimately prevail. Similarly, the NLRB and the IRS have invoked this policy and were the subject of inquiry during a recent House hearing which investigated the alarming rise of agency nonacquiescence.

The true residual dangers of the nonacquiescence policy, however, lie in its more far-reaching implications. Theoretically, any agency can invoke this policy to avoid the law. When the Bureau of Land Management recently proposed reform regulations for grazing permits, ranchers challenged the new provisions. After exhausting all administrative remedies, the ranchers took their case to court. Following lengthy and costly litigation, the appellate court ruled in favor of the ranchers. However, under the nonacquiescence policy, the BLM could refuse to abide by this ruling each and every time this issue arises. Now grazing permits may not seem like a big deal to people here in Washington, but like many Western States, more than 30 percent of all the land in my home State of Colorado is Government-owned and under the control of a Federal agency. In western Colorado, almost 60 percent of the land falls into this arrangement. A rancher waiting for a grazing permit may be unable to get a loan or conduct necessary planning, which could force that rancher out of the livestock industry altogether. At the very least, each time a claim is relitigated, it involves tens of thousands of dollars and years of financial uncertainty for the claimant. Such a refusal to adhere to judicial precedent sends a clear message to the American people—a message of unfairness and inequality which in turn breeds mistrust against the Government. If the people must adhere to judicial precedent, we should require no less of Government agencies.

This problem has been around for decades, but Congress first addressed this issue when it was considering the Social Security Act of 1984. The conference report for that legislation highlighted the magnitude of concern over this policy when it stated:

> By refusing to apply circuit court interpretations and by not promptly seeking review by the Supreme Court, the Secretary forces beneficiaries to re-litigate the same issue over and over again in the circuit, at a substantial expense to both beneficiaries and the federal government. This is clearly an undesirable consequence.

At that time, Congress allowed the agencies to address this problem internally rather than by statute. Now in

1997, 13 years later, nonacquiescence is alive and well and it would be a gross understatement to say that this problem continues to be an undesirable consequence. In fact, Congress' failure to act 13 years ago has allowed the nonacquiescence policy to grow into a bureaucratic nightmare. This is nothing less than bureaucracy run amuck. It is now our duty to address this situation before any more time and money is wasted.

Because I believe it is important to hold Federal agencies accountable, today I am introducing legislation which would require a Federal agency to comply with Federal court precedents within the circuit where a claim is filed. However, this bill also allows an agency to deviate from such precedent under certain circumstances, thus giving the agency additional avenues when there is a conflict between judicial precedent and agency regulations. In contrast to the present policy of nonacquiescence, in which the general public has no additional avenue except to relitigate an issue at personal expense, my bill upholds the fundamental concept of stare decisis and will in turn provide stability, economy and equality for all Americans.

The House version of this legislation was introduced earlier in this Congress by Congressman GEKAS and Congressman FRANK and has been reported favorably out of the Subcommittee on Commercial and Administrative Law. This bill is supported by the Judicial Conference of the United States, Americans for Tax Reform, the Association of Administrative Law Judges, and the American Bar Association.

I urge my colleagues to support this important legislation.

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

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

S. 1166

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 ''Federal Agency Compliance Act''.

SEC. 2. PROHIBITING INTRACIRCUIT AGENCY NONACQUIESCENCE IN APPELLATE PRECEDENT.

(a) IN GENERAL.—Chapter 7 of title 5, United States Code, is amended by adding at the end the following:

''§ 707. Adherence to court of appeals precedent

''(a) Except as provided in subsection (b), an agency (as defined in section 701(b)(1) of this title) shall, in administering a statute, rule, regulation, program, or policy within a judicial circuit, adhere to the existing precedent respecting the interpretation and application of such statute, rule, regulation, program, or policy, as established by the decisions of the United States court of appeals for that circuit.

''(b) An agency is not precluded under subsection (a) from taking a position, either in administration or litigation, that is at variance with precedent established by a United States court of appeals if—

''(1) it is not certain whether the administration of the statute, rule, regulation, program, or policy will be subject to review by the court of appeals that established that precedent or a court of appeals for another circuit;

''(2) the Government did not seek further review of the case in which that precedent was first established, in that court of appeals or the United States Supreme Court, because—

''(A) neither the United States nor any agency or officer thereof was a party to the case; or

''(B) the decision establishing that precedent was otherwise substantially favorable to the Government; or

''(3) it is reasonable to question the continued validity of that precedent in light of a subsequent decision of that court of appeals or the United States Supreme Court, a subsequent change in any pertinent statute or regulation, or any other subsequent change in the public policy or circumstances on which that precedent was based.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 7 of title 5, United States Code, is amended by adding at the end of following new item:

''707. Adherence to court of appeals precedent.''.

SEC. 3. PREVENTING UNNECESSARY AGENCY RELITIGATION IN MULTIPLE CIRCUITS.

(a) IN GENERAL.—Chapter 7 of title 5, United States Code, as amended by section 2(a), is amended by adding at the end the following:

''§ 708. Supervision of litigation; limiting unnecessary relitigation of legal issues

''(a) In supervising the conduct of litigation, the officers of any agency of the United States authorized to conduct litigation, including the Department of Justice acting under sections 516 and 519 of title 28 shall ensure that the initiation, defense, and continuation of proceedings in the courts of the United States within, or subject to the jurisdiction of, a particular judicial circuit avoids unnecessarily repetitive litigation on questions of law already consistently resolved against the position of the United States, or an agency or officer thereof, in precedents established by the United States courts of appeals for 3 or more other judicial circuits.

''(b) Decisions on whether to initiate, defend, or continue litigation for purposes of subsection (a) shall take into account, among other relevant factors, the following:

''(1) The effect of intervening changes in pertinent law or the public policy or circumstances on which the established precedents were based.

''(2) Subsequent decisions of the United States Supreme Court or the courts of appeals that previously decided the relevant question of law.

''(3) The extent to which that question of law was fully and adequately litigated in the cases in which the precedents were established.

''(4) The need to conserve judicial and other parties' resources.

''(c) The Attorney General shall report annually to the Committees on the Judiciary of the Senate and the House of Representatives on the efforts of the Department of Justice and other agencies to comply with subsection (a).

''(d) A decision on whether to initiate, defend, or continue litigation is not subject to review in a court, by mandamus or otherwise, on the grounds that the decision violates subsection(a).''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 7 of title 5, United States Code, as amended by section 2(b) is amended by adding at the end of the following new item:

''708, Supervision of litigation; limiting unnecessary relitigation of legal issues.''.

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

S. 1167. A bill to amend the Tariff Act of 1930 to clarify the method for calculating cost of production for purposes of determining antidumping margins; to the Committee on Finance.

THE TARIFF ACT OF 1930 ANTIDUMPING CLARIFICATION AMENDMENT ACT OF 1997

Mr. INOUYE. Mr. President, I rise to introduce legislation that would make very minor changes to the antidumping provisions of the Tariff Act of 1930. This bill will clarify Commerce Department authority to allocate costs in antidumping cases consistent with sound accounting principles and commercial reality. Although the antidumping law generally affords the Commerce Department wide latitude in determining proper cost allocations in antidumping cases, developing case law in this area severely limits the ability of the Department to calculate accurate dumping margins. Specifically, these cases interpret the current antidumping statute to prevent the Department from relying on cost allocations based on revenues, even though revenue-based allocations are widely accepted in the accounting profession and often are most appropriate in particular fact situations.

This bill would not require a particular kind of cost allocation in any given case. Rather, the proposal would clarify the Department of Commerce's authority to use any appropriate cost allocation methodology, including a revenue-based methodology, consistent with generally accepted accounting principles and the particular facts of the case at hand.

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. 1167

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

SECTION 1. CLARIFICATION OF RULES FOR CALCULATING COST OF PRODUCTION AND CONSTRUCTED VALUE.

Section 773(f)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1677b(f)(1)(A)) is amended—

(1) by striking ''Costs'' and inserting ''(i) CALCULATION OF COSTS.—Costs'';

(2) by striking ''The Administering authority'' and inserting ''(ii) ALLOCATION OF COSTS.—

''(I) GENERAL RULE.—The administering authority'';

(3) by indenting the text so as to align clauses (i) and (ii) (as added by paragraphs (1) and (2)) with clause (i) of subparagraph (C) of such section 773(f)(1)); and

(4) by adding at the end the following:

''(II) METHODS FOR ALLOCATING COST OF PRODUCTION.—In determining the proper allocation of costs, the administering authority may use value-based methodology, weight-based cost methodology, or any other methodology that is consistent with generally accepted accounting principles of the exporter

country (or producing country, where appropriate) and that reasonably reflects the costs associated with the production and sale of each product.''.

(b) APPLICATION TO CANADA AND MEXICO.—Pursuant to article 1902 of the North American Free Trade Agreement and section 408 of the North American Free Trade Agreement Implementation Act, the amendments made by this section shall apply with respect to goods from Canada and Mexico.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to—

(1) investigations initiated—

(A) on the basis of petitions filed under section 732(b) or 783(b) of the Tariff Act of 1930 after January 1, 1995; or

(B) by the administering authority under section 732(a) of such Act after such date;

(2) reviews initiated under section 751 of such Act—

(A) by the administering authority or the Commission on their own initiative after such date; or

(B) pursuant to a request filed after such date;

(3) petitions filed under section 780 of such Act after such date; and

(4) inquiries initiated under section 781 of such Act—

(A) by the administering authority on its initiative after such date; or

(B) pursuant to a request filed after such date.

By Mr. REED:

S. 1169. A bill to establish professional development partnerships to improve the quality of America's teachers and the academic achievement of students in the classroom, and for other purposes; to the Committee on Labor and Human Resources.

THE TEACHER EXCELLENCE IN AMERICA CHALLENGE ACT OF 1997

Mr. REED. Mr. President, we all recognize the need for qualified, well-trained and dedicated teachers to improve the education of students throughout the United States. Unfortunately, many students who are just returning from their summer vacations are entering classrooms where teachers have not been so prepared, who are not as qualified as they should be, and this, of course, impacts tremendously on the productivity and the excellence of American education.

Today I am introducing legislation which I believe will change fundamentally the way teachers are trained and, thus, improve the quality of teaching in America's classrooms. This is absolutely critical, since over the next decade, 2 million new teachers will need to be hired. This is the result of a combination of retirements of existing teachers, together with the increase in student population which is taking place throughout the United States.

Last year's report by the National Commission on Teaching and America's Future entitled, ''What Matters Most: Teaching for America's Future'', shed light on the disheartening state of the teaching profession in the United States: more than 12 percent of all newly hired teachers have no training whatsoever in educational technique and pedagogy; more than 14 percent enter the teaching profession without meeting State standards; 23 percent of all secondary teachers do not have even a minor in the main teaching field which they have been hired to perform, including more than 30 percent of mathematics teachers; and, in schools with the highest minority enrollments, students have less than a 50-percent chance of getting a science or mathematics teacher who holds a license and degree in the field which they are teaching.

These findings were echoed also in ''Quality Counts: A Report Card on the Condition of Public Education in the 50 States,'' which was published this past January by Education Week. This report notes that on average, 4 out of 10 secondary teachers do not have a degree in the subjects they teach; there are too many unlicensed teachers in America's classrooms; and too few of our prospective teachers receive the high-quality education they need to be effective teachers.

Overall, this report rated the States, and the average was C. No State received an A, and there were only eight B's: California, Colorado, Georgia, Kentucky, Massachusetts, Minnesota, Nebraska, and Vermont. Three States received D's for their teaching: Arizona, Hawaii, and Idaho. And the rest, including my State of Rhode Island, received a gentleman's C, which in today's competitive world is unsatisfactory for the future of our country and the success of our children.

It must be noted that teacher quality varies tremendously; that in different classrooms in the same schools, you will see outstanding teachers in one and less qualified teachers in another. Many students are taught by a qualified teacher who understands their subject and how to teach students to excel. But not all students are so fortunate. These students are being deprived essentially of the quality education they need because their teacher is not well prepared and not qualified.

''What teachers know and do is the most important reflection on what students learn'' is the first premise of the National Commission on Teaching and America's Future.

Given the statistics I just recited about the current state of teaching in America, it is no wonder American students are failing to make the grade in a very competitive world. Indeed, a study which compared high- and low-achieving elementary schools with similar student characteristics found that more than 90 percent of the variation in achievement in math and reading was directly attributable to differences in the qualifications of the teachers in those schools.

It is also no wonder that American students don't fare well in international comparisons. The results of the eighth-grade Third International Mathematics and Science Study found that these students barely scored above the world average in science and below the world average in mathematics. And today, being mediocre is insufficient in order to face the challenges of a very complex world.

Even though much has been done to address teacher quality, the truth is that the current system of teacher preparation does not give teachers a fair chance at success. Prospective teachers, those in training in our Nation's teacher colleges, are not likely to be provided with the panoply of experiences which they need, such as actual classroom time, structured practice opportunities, a talented and experienced teacher as a mentor, and the skills to work with diverse student populations.

These are the tools they need to be adequately prepared and, sadly, many do not receive this help while they are in teacher preparation. Indeed, as the 1996 report by the National Commission on Teaching and America's Future notes, traditional teacher education programs are failing because they are too short, too fragmented and they use textbooks rather than active hands-on teaching methods. They also neglect to develop some of the ideas and concepts that are critical to success, such as working in teams and using technology.

Sadly, I believe there is a real disconnect between the teacher colleges that prepare teachers and the elementary and secondary schools that hire them to teach the children of America. Consequently, beginning teachers are thrown into classrooms without the skills to succeed. As Linda Darling-Hammond, the Executive Director of the National Commission on Teaching and America's Future, writes, the message given to these teachers in the beginning of the school year is ''Figure it out yourself. We'll see you in June. . .if you make it that long!''

Due to this sink-or-swim method of teacher preparation, some teachers do not make it to June or survive past the first few years of teaching. As a USA Today article from earlier this year points out, 17 percent of new teachers leave the classroom after 1 year, and a 1987 study by Grissmer and Kirby estimated that 30 to 50 percent of new teachers leave the profession within 3 to 5 years.

Add to this defection from the ranks of the profession the increased student enrollment due to the continuing Baby Boom Echo which will reach a record 52.2 million in 1997 and, indeed, increase each year through 2006, and impending retirements of many of our teachers. This situation creates a tremendous challenge and a need to prepare over 2 million new teachers to face the next century.

The time is ripe to face this challenge. We must do so now before public support for education wanes. By enacting needed reforms and changes in how we prepare and continue the development of teachers, we can guarantee the success of both students and teachers.

We must directly connect our teacher preparation and development system to

our elementary and secondary schools. Our future teachers need and deserve the kind of hands-on training and ''real world'' experience they will get from more exposure and practice in today's classrooms, as well as the mentoring and assistance they will receive from our best and most experienced veteran teachers. My bill accomplishes this by fostering partnerships between the teacher colleges at our Nation's institutions of higher education and elementary and secondary schools.

These partners should work in concert to prepare teachers adequately and keep their skills updated by working jointly to develop enhanced curricula and mentoring activities, as well as to research and implement sound teaching and learning practices.

As Jerrald Shrive wrote in ''Lessons from Restructuring Experiences: Stories of Change in Professional Development Schools'':

> . . . educational partnerships and collaborations [between schools and universities] can be one significant piece of the actions necessary to move all of education to more productive levels.

These premises underlie the legislation I introduce today. The Teacher Excellence in America Challenge Act or the TEACH Act, aims to improve the continuum of professional development from preservice preparation to the induction of new teachers to the improvement of veteran teachers, all of this designed to increase the achievement of our students.

My legislation establishes a competitive 5-year grant program to provide grants to professional development partnerships consisting of institutions of higher education, public elementary and secondary schools, local educational agencies, and others, such as the State educational agency, teacher organizations, or nonprofit organizations. These partnerships must be based upon a mutual commitment to improve teaching and learning.

These partnerships would use grant funding to support, as well as create, professional development schools, a reform that has been employed across this country and other industrialized nations and has shown success in increasing student achievement, better preparing prospective and beginning teachers, and providing critical ongoing opportunities for the professional development of veteran teachers.

Professional development schools involve shared responsibility and cooperation between the institutions of higher education that prepare teachers and the public elementary and secondary schools that employ teachers, a system similar to teaching hospitals.

An example of a professional development school can be found at the Sullivan School in Newport, RI. It is in a partnership with Salve Regina University. At the Sullivan School, Salve Regina students are given opportunities to practice teaching in a real classroom. Sullivan teachers are involved in observing these Salve Regina students, and they can also utilize the resources of Salve Regina University for professional development opportunities. Sullivan students go on field trips to Salve Regina for both higher education and career awareness activities, and the parents of these Sullivan students are also involved and are also provided opportunities for education and training.

This is a model of one possible way to use professional development schools to enhance the preparation of teachers, the education of students, and the involvement of parents.

Additional components of the TEACH Act include forging links between a university's school of education and their schools of arts and sciences. We have found in our discussions and research that many times within the university itself there is no collaboration, connection and concentration. This legislation will foster such cooperation.

The TEACH Act also encourages the development of mentoring programs in which senior expert teachers would help younger teachers. It emphasizes technology training, which is a key piece now of higher education everywhere, and it recognizes that in order to be a good teacher, you have to have time to prepare to be a good teacher. It also would create a cadre of quality teachers that would act as a resource to enhance the professional development of all teachers and reestablishes principals as educational leaders.

This is not a giveaway grant program. The TEACH Act offers resources to partnerships but it demands results. Strong evaluation provisions in the TEACH Act require that partnerships demonstrate increased student achievement, improved teacher preparation, increased opportunities for professional development, and also it insists that well-qualified teachers be placed in the classroom in order to continue to receive this grant funding.

In addition, the legislation requires an independent national evaluation of the short-term and long-term impacts and outcomes of these professional development partnerships.

Mr. President, given the growing need to update and improve the teacher training in this country, I expect we will see other proposals to address this problem offered in this body. I would be concerned if such proposals fell short on what we must accomplish by block granting training programs or failing to approach the kind of rigor that is included in the legislation I submit today. We have to have a rigorous and demanding legislative agenda in order to inspire and act as a catalyst for better teacher training across the country. Better teacher training will lead to better teachers. And better teachers will lead to better education and a better future for our children.

My legislation puts us on track to answering the call of the National Commission on Teaching and America's Future to provide every student in America with access to competent, qualified, and dedicated teaching by the year 2006.

I urge my colleagues to join me in this essential endeavor and to support the TEACH Act and help reform our system of teacher training as well as update the skills of teachers already in the classroom.

Mr. President, I ask unanimous consent that a copy of this legislation be printed in the RECORD.

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

S. 1169

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

SECTION 1. TEACHER EXCELLENCE IN AMERICA CHALLENGE.

Part A of title V of the Higher Education Act of 1965 (20 U.S.C. 1102 et seq.) is amended to read as follows:

"PART A—TEACHER EXCELLENCE IN AMERICA CHALLENGE

"SEC. 501. SHORT TITLE.

''This part may be cited as the 'Teacher Excellence in America Challenge Act of 1997'.

"SEC. 502. PURPOSE.

''The purpose of this part is to improve the preparation and professional development of teachers and the academic achievement of students by encouraging partnerships among institutions of higher education, elementary schools or secondary schools, local educational agencies, State educational agencies, teacher organizations, and nonprofit organizations.

"SEC. 503. GOALS.

''The goals of this part are as follows:

''(1) To support and improve the education of students and the achievement of higher academic standards by students, through the enhanced professional development of teachers.

''(2) To ensure a strong and steady supply of new teachers who are qualified, well-trained, and knowledgeable and experienced in effective means of instruction, and who represent the diversity of the American people, in order to meet the challenges of working with students by strengthening preservice education and induction of individuals into the teaching profession.

''(3) To provide for the continuing development and professional growth of veteran teachers.

''(4) To provide a research-based context for reinventing schools, teacher preparation programs, and professional development programs, for the purpose of building and sustaining best educational practices and raising student academic achievement.

"SEC. 504. DEFINITIONS.

''In this part:

''(1) ELEMENTARY SCHOOL.—The term ''elementary school'' means a public elementary school.

''(2) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' means an institution of higher education that—

''(A) has a school, college, or department of education that is accredited by an agency recognized by the Secretary for that purpose; or

''(B) the Secretary determines has a school, college, or department of education of a quality equal to or exceeding the quality of schools, colleges, or departments so accredited.

''(3) POVERTY LINE.—The term 'poverty line' means the poverty line (as defined by the Office of Management and Budget, and

revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.

''(4) PROFESSIONAL DEVELOPMENT PARTNERSHIP.—The term 'professional development partnership' means a partnership among 1 or more institutions of higher education, 1 or more elementary schools or secondary schools, and 1 or more local educational agency based on a mutual commitment to improve teaching and learning. The partnership may include a State educational agency, a teacher organization, or a nonprofit organization whose primary purpose is education research and development.

''(5) PROFESSIONAL DEVELOPMENT SCHOOL.—The term 'professional development school' means an elementary school or secondary school that collaborates with an institution of higher education for the purpose of—

''(A) providing high quality instruction to students and educating students to higher academic standards;

''(B) providing high quality student teaching and internship experiences at the school for prospective and beginning teachers; and

''(C) supporting and enabling the professional development of veteran teachers at the school, and of faculty at the institution of higher education.

''(6) SECONDARY SCHOOL.—The term 'secondary school' means a public secondary school.

''(7) TEACHER.—The term 'teacher' means an elementary school or secondary school teacher.''

''SEC. 505. PROGRAM AUTHORIZED.

''(a) IN GENERAL.—From the amount appropriated under section 511 and not reserved under section 509 for a fiscal year, the Secretary may award grants, on a competitive basis, to professional development partnerships to enable the partnerships to pay the Federal share of the cost of providing teacher preparation, induction, classroom experience, and professional development opportunities to prospective, beginning, and veteran teachers while improving the education of students in the classroom.

''(b) DURATION; PLANNING.—The Secretary shall award grants under this part for a period of 5 years, the first year of which may be used for planning to conduct the activities described in section 506.

''(c) PAYMENTS; FEDERAL SHARE; NON-FEDERAL SHARE.—

''(1) PAYMENTS.—The Secretary shall make annual payments pursuant to a grant awarded under this part.

''(2) FEDERAL SHARE.—The Federal share of the costs described in subsection (a)(1) shall be 80 percent.

''(3) NON-FEDERAL SHARE.—The non-Federal share of the costs described in subsection (a)(1) may be in cash or in-kind, fairly evaluated.

''(d) CONTINUING ELIGIBILITY.—

''(1) 2ND AND 3D YEARS.—The Secretary may make a grant payment under this section for each of the 2 fiscal years after the first fiscal year a professional development partnership receives such a payment, only if the Secretary determines that the partnership, through the activities assisted under this part, has made reasonable progress toward meeting the criteria described in paragraph (3).

''(2) 4TH AND 5TH YEARS.—The Secretary may make a grant payment under this section for each of the 2 fiscal years after the third fiscal year a professional development partnership receives such a payment, only if the Secretary determines that the partnership, through the activities assisted under this part, has met the criteria described in paragraph (3).

''(3) CRITERIA.—The criteria referred to in paragraphs (1) and (2) are as follows:

''(A) Increased student achievement as determined by increased graduation rates, decreased dropout rates, or higher scores on local, State, or national assessments for a year compared to student achievement as determined by the rates or scores, as the case may be, for the year prior to the year for which a grant under this part is received.

''(B) Improved teacher preparation and development programs, and student educational programs.

''(C) Increased opportunities for enhanced and ongoing professional development of teachers.

''(D) An increased number of well-prepared individuals graduating from a school, college, or department of education within an institution of higher education and entering the teaching profession.

''(E) Increased recruitment to, and graduation from, a school, college, or department of education within an institution of higher education with respect to minority individuals.

''(F) Increased placement of qualified and well-prepared teachers in elementary schools or secondary schools, and increased assignment of such teachers to teach the subject matter in which the teachers received a degree or specialized training.

''(G) Increased dissemination of teaching strategies and best practices by teachers associated with the professional development school and faculty at the institution of higher education.

''(e) PRIORITY.—In awarding grants under this part, the Secretary shall give priority to professional development partnerships serving elementary schools, secondary schools, or local educational agencies, that serve high percentages of children from families below the poverty line.

''SEC. 506. AUTHORIZED ACTIVITIES.

''(a) IN GENERAL.—Each professional development partnership receiving a grant under this part shall use the grant funds for—

''(1) creating, restructuring, or supporting professional development schools;

''(2) enhancing and restructuring the teacher preparation program at the school, college, or department of education within the institution of higher education, including—

''(A) coordinating with, and obtaining the participation of, schools, colleges, or departments of arts and science;

''(B) preparing teachers to work with diverse student populations; and

''(C) preparing teachers to implement research-based, demonstrably successful, and replicable, instructional programs and practices that increase student achievement;

''(3) incorporating clinical learning in the coursework for prospective teachers, and in the induction activities for beginning teachers;

''(4) mentoring of prospective and beginning teachers by veteran teachers in instructional skills, classroom management skills, and strategies to effectively assess student progress and achievement;

''(5) providing high quality professional development to veteran teachers, including the rotation, for varying periods of time, of veteran teachers—

''(A) who are associated with the partnership to elementary schools or secondary schools not associated with the partnership in order to enable such veteran teachers to act as a resource for all teachers in the local educational agency or State; and

''(B) who are not associated with the partnership to elementary schools or secondary schools associated with the partnership in order to enable such veteran teachers to observe how teaching and professional development occurs in professional development schools;

''(6) preparation time for teachers in the professional development school and faculty of the institution of higher education to jointly design and implement the teacher preparation curriculum, classroom experiences, and ongoing professional development opportunities;

''(7) preparing teachers to use technology to teach students to high academic standards;

''(8) developing and instituting ongoing performance-based review procedures to assist and support teachers' learning;

''(9) activities designed to involve parents in the partnership;

''(10) research to improve teaching and learning by teachers in the professional development school and faculty at the institution of higher education; and

''(11) activities designed to disseminate information, regarding the teaching strategies and best practices implemented by the professional development school, to—

''(A) teachers in elementary schools or secondary schools, which are served by the local educational agency or located in the State, that are not associated with the professional development partnership; and

''(B) institutions of higher education in the State.

''(b) CONSTRUCTION PROHIBITED.—No grant funds provided under this part may be used for the construction, renovation, or repair of any school or facility.

''SEC. 507. APPLICATIONS.

''Each professional development partnership desiring a grant under this part shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each such application shall—

''(1) describe the composition of the partnership;

''(2) describe how the partnership will include the participation of the schools, colleges, or departments of arts and sciences within the institution of higher education to ensure the integration of pedagogy and content in teacher preparation;

''(3) identify how the goals described in section 503 will be met and the criteria that will be used to evaluate and measure whether the partnership is meeting the goals;

''(4) describe how the partnership will restructure and improve teaching, teacher preparation, and development programs at the institution of higher education and the professional development school, and how such systemic changes will contribute to increased student achievement;

''(5) describe how the partnership will prepare teachers to implement research-based, demonstrably successful, and replicable, instructional programs and practices that increase student achievement;

''(6) describe how the teacher preparation program in the institution of higher education, and the induction activities and ongoing professional development opportunities in the professional development school, incorporate—

''(A) an understanding of core concepts, structure, and tools of inquiry as a foundation for subject matter pedagogy; and

''(B) knowledge of curriculum and assessment design as a basis for analyzing and responding to student learning;

''(7) describe how the partnership will prepare teachers to work with diverse student populations, including minority individuals and individuals with disabilities;

''(8) describe how the partnership will prepare teachers to use technology to teach students to high academic standards;

''(9) describe how the research and knowledge generated by the partnership will be disseminated to and implemented in—

''(A) elementary schools or secondary schools served by the local educational agency or located in the State; and

''(B) institutions of higher education in the State;

''(10)(A) describe how the partnership will coordinate the activities assisted under this part with other professional development activities for teachers, including activities assisted under titles I and II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq., 6601 et seq.), the Goals 2000: Educate America Act (20 U.S.C. 5801 et seq.), the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), and the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.); and

''(B) describe how the activities assisted under this part are consistent with Federal and State educational reform activities that promote student achievement of higher academic standards;

''(11) describe which member of the partnership will act as the fiscal agent for the partnership and be responsible for the receipt and disbursement of grant funds under this part;

''(12) describe how the grant funds will be divided among the institution of higher education, the elementary school or secondary school, the local educational agency, and any other members of the partnership to support activities described in section 506;

''(13) provide a description of the commitment of the resources of the partnership to the activities assisted under this part, including financial support, faculty participation, and time commitments; and

''(14) describe the commitment of the partnership to continue the activities assisted under this part without grant funds provided under this part.

''SEC. 508. ASSURANCES.

''Each application submitted under this part shall contain an assurance that the professional development partnership—

''(1) will enter into an agreement that commits the members of the partnership to the support of students' learning, the preparation of prospective and beginning teachers, the continuing professional development of veteran teachers, the periodic review of teachers, standards-based teaching and learning, practice-based inquiry, and collaboration among members of the partnership;

''(2) will use teachers of excellence, who have mastered teaching techniques and subject areas, including teachers certified by the National Board for Professional Teaching Standards, to assist prospective and beginning teachers;

''(3) will provide for adequate preparation time to be made available to teachers in the professional development school and faculty at the institution of higher education to allow the teachers and faculty time to jointly develop programs and curricula for prospective and beginning teachers, ongoing professional development opportunities, and the other authorized activities described in section 506; and

''(4) will develop organizational structures that allow principals and key administrators to devote sufficient time to adequately participate in the professional development of their staffs, including frequent observation and critique of classroom instruction.

''SEC. 509. NATIONAL ACTIVITIES.

''(a) IN GENERAL.—The Secretary shall reserve a total of not more than 10 percent of the amount appropriated under section 511 for each fiscal year for evaluation activities under subsection (b), and the dissemination of information under subsection (c).

''(b) NATIONAL EVALUATION.—The Secretary, by grant or contract, shall provide for an annual, independent, national evaluation of the activities of the professional development partnerships assisted under this part. The evaluation shall be conducted not later than 3 years after the date of enactment of the Teacher Excellence in America Challenge Act of 1997 and each succeeding year thereafter. The Secretary shall report to Congress and the public the results of such evaluation. The evaluation, at a minimum, shall assess the short-term and long-term impacts and outcomes of the activities assisted under this part, including—

''(1) the extent to which professional development partnerships enhance student achievement;

''(2) how, and the extent to which, professional development partnerships lead to improvements in the quality of teachers;

''(3) the extent to which professional development partnerships improve recruitment and retention rates among beginning teachers, including beginning minority teachers; and

''(4) the extent to which professional development partnerships lead to the assignment of beginning teachers to public elementary or secondary schools that have a shortage of teachers who teach the subject matter in which the teacher received a degree or specialized training.

''(c) DISSEMINATION OF INFORMATION.—The Secretary shall disseminate information (including creating and maintaining a national database) regarding outstanding professional development schools, practices, and programs.

''SEC. 510. SUPPLEMENT NOT SUPPLANT.

''Funds appropriated under section 511 shall be used to supplement and not supplant other Federal, State, and local public funds expended for the professional development of elementary school and secondary school teachers.

''SEC. 511. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated to carry out this part $100,000,000 for fiscal year 1999, and such sums as may be necessary for each of the fiscal years 2000 through 2003.''.

SEC. 2. REPEALS.

Part B of title V of the Higher Education Act of 1965 (20 U.S.C. 1103 et seq.), subparts 1 and 3 of part C of such title (20 U.S.C. 1104 et seq., 1106 et seq.), subparts 3 and 4 of part D of such title (20 U.S.C. 1109 et seq., 1110 et seq.), subpart 1 of part E of such title (20 U.S.C. 1111 et seq.), and part F of such title (20 U.S.C. 1113 et seq.), are repealed.

By Ms. SNOWE:

S. 1170. A bill to establish a training voucher system, and for other purposes; to the Committee on Labor and Human Resources.

THE WORKING AMERICAN TRAINING VOUCHER ACT OF 1997

Ms. SNOWE. Mr. President. I rise today to introduce legislation that will address a serious need of America's workers: The need to receive training that will prepare individuals for the workplace of the 21st century. My legislation, entitled the ''Working American Training Voucher Act,'' would provide $1,000 training vouchers to 1 million working men and women who typically have little or no access to employer-provided training.

Mr. President, many Federal programs focus on the needs of those whose challenges and difficulties are most easily recognized and tangible. When we see a hungry child, an unemployed adult, or an impoverished senior citizen, we justifiably want to reach out and do what we can to help. Indeed, I am proud to be an active voice for those whose challenges and pains we can sometimes only imagine. However, it is oftentimes difficult to recognize the needs of those whose challenges are less tangible, whose concerns are less evident, or whose sense of insecurity about the future is known only by the individual and their family.

It is this difficulty that confronts many American workers today. In the face of increasing global competition, many workers wonder if the job they have today will be there for them tomorrow. They are concerned that the advent of new technologies is making their skills and talents less useful for their current employers which, in turn, makes them feel more vulnerable and expendable. And they wonder if the skills they posses today are even marketable if they are downsized or otherwise put out of work.

Unfortunately, these types of concerns and anxieties oftentimes do not show on the surface, so it can be difficult for others to recognize or address them. It is too easy for many to assume that because a man or woman is already holding down a job, all is well and his or her future is secure. After all, how bad can it be if you're punching a time clock and getting a paycheck? Unfortunately, such a view is not only shortsighted, it is also misguided and could prove disastrous.

We should not wait until a worker has been laid off from their job, or a company shuts its doors and shutters its windows, to take steps to help the American worker. Rather, we should take steps to ensure that our Nation's work force is confident of their future and feels prepared to address the changes that tomorrow will bring. Not only does this help the individual, but I think we would all agree that the best way to reduce the impact and cost of unemployment is to take steps to keep those who are already employed on the job.

Admittedly, many policies and decisions play an integral role in creating a vibrant job market. The tax burden we place on businesses, the trade agreements we sign with foreign governments, and the regulatory load we place on employers all have a significant impact on our economy's ability to produce and sustain good jobs. However, for the individual, many of these polices seem too macro to have an impact on their own employment prospects. In fact, an individual may not even recognized the direct impact these broader policies have on their job from day to day.

There is, however, one issue that truly strikes at the heart of how an individual feels about the future: The degree to which he or she knows that their skills match the needs of their

current employer or other prospective employers in the marketplace. Without this knowledge, it does not matter to an individual if the unemployment rate is as low as economists consider the natural rate of unemployment or if the newspapers tell him or her that the economy couldn't be better. The simple fact is that unless an individual personally feels that their skills are up-to-date and marketable, there will never be a complete sense of security on the job from one day to the next.

And that's what the legislation I am introducing today is all about. The Working American Training Voucher Act addresses the needs of the average American worker—the individual who has a job today, but doesn't know if he or she has the skills needed for the jobs of tomorrow. The person who's collecting a paycheck now, but is concerned that the rapidly changing work environment may put an end to that soon.

Mr. President, we all know new technologies and new products are entering the workplace at an unprecedented rate and the changes these technologies bring are substantial. Few professions and few jobs have gone untouched by these changes—and even fewer will be immune from change in the future. Indeed, just as computers have changed the face of manufacturing, they have also changed the world of art and design. Even labor intensive tasks at assembly shops have taken on a high-tech flair thanks to new technologies.

For an individual who understands these technologies or received training in their use, these changes present exciting new opportunities that improve performance and ultimately give one a sense of assurance that their skills are in demand. But for those who do not understand these technologies or do not receive training in their use, these technologies are nothing more than a threat and cause for anxiety.

Regrettably, even as the demand for training at all levels in the workplace continues to grow because of these changing technologies, the United States has historically lagged far behind our global competitors in training workers. In fact, a study by the Congressional Office of Technology Assessment concluded: ''When measured by international standards, most American workers are not well trained.''

While some U.S. companies devote a substantial amount of money to training, many of our global competitors spend considerably more. A study by the American Society for Training and Development highlighted this point when it found that U.S. companies spend—in the aggregate—approximately 1.4 percent of their payroll on training, while a number of our competitor nations actually require companies to spend 2 to 4 percent. While I would not espouse a mandatory training budget for any business, I believe we can and should seek to improve the availability of training for our Nation's workers—and especially for those who need it most but are least likely to receive it. And that's precisely who the working American training voucher is designed to reach.

Mr. President, the working American training voucher would provide access to critically needed training for workers at businesses with 200 or fewer employees. Why is it targeted to workers in small businesses? Quite simply, because these are the individuals who are the least likely to receive—or be offered—employer-provided training. The same report by the Congressional Office of Technology Assessment summarized the plight of employees at small businesses quite succinctly: ''Many (employees) in smaller firms receive no formal training.''

A recent report—completed by Prof. Craig Olson at the University of Wisconsin-Madison and presented to the Senate Manufacturing Task Force this past September—looked at the difference between the likelihood an individual would receive training and the level of educational achievement he or she attained, or the field he or she chose to enter. Dr. Olson's study found that individuals with a bachelor's or master's degree had a 50 percent chance of receiving training in the past year, while individuals with a high school diploma had only a 17 percent chance. Those who dropped out of high school fared even worse; their odds of receiving training were only 5 percent.

When viewed by occupation, individuals who worked in production- or service-related jobs had only a 16 percent and 18 percent chance of receiving training respectively, while those in management had a 50 percent chance. When considering that only one in four American workers received training in the past 12 months, these odds don't bode well for many employees at small businesses whose educational attainment and occupations fall in the categories that are the least likely to receive training.

One might understandably ask: Why is it that small businesses often provide so little training? The answer: cost. Small businesses are quite often unable to afford the cost of sending an employee to a training program. When your business is just trying to make ends meet, it's impossible to send an employee to a training class that costs the business both money and time away from work.

Mr. President, the working American training voucher is designed to address this problem in a straightforward and efficient way. These vouchers—valued at up to $1,000 each—would be made available to employees at small businesses through the existing job training system that is already in place as a result of the Job Training Partnership Act, or JTPA. As my colleagues in the Senate know, State and local governments—joined by the private sector—have primary responsibility for the development, management, and administration of job training programs in the JTPA, so no new distribution network would be necessary to conduct this voucher program.

The only major requirement for receiving a voucher would be that the employee and employer must agree on the specific training that will be purchased with the voucher. This will ensure that the training will be targeted specifically to the needs of the individual and the business—money would not be spent on generic training programs that teach skills that are of little, if any, use in a particular field or job. Furthermore, such an agreement will ensure that workers are actively engaged in pursuing training that will help their careers, even as employers will be urging employees to undertake training that will help the business.

The Senate Labor Committee will soon be preparing legislation to recraft and consolidate many of our federally-run job training programs in the JTPA. I am greatly concerned that none of our current 128 job training programs is specifically targeted to training for currently employed individuals—and I believe that the working American training voucher would fill this void for those who need access to this training the most. Therefore, I am hopeful that my legislation and this concept will be incorporated in the job training reform bill when it is reported from the Senate Labor Committee and is considered on the floor of the Senate.

Mr. President, I believe that as we prepare our work force for the next century, we should be encouraging workers to develop new skills that will improve their longevity in their current jobs even as they gain confidence that their skills will be needed in the future. Not only will these new skills increase the confidence and performance of the individual worker, but they will also improve the productivity of the business who employs them. And we all know that if we improve a business' productivity and output, that business is more likely to survive and thrive—which means that this voucher may ultimately assist in preserving businesses and jobs in the long run.

Furthermore, better skills and training will ensure that individuals are able to rapidly transition to new jobs in the unfortunate event their current job is lost for reasons beyond their control. Regardless of how favorable the Tax Code is made or how many burdensome regulations we remove, we will never be able to guarantee an individual that his or her job will be around forever. But we can provide a worker with access to training that will keep his or her skills up to date and marketable no matter what the future holds.

Mr. President, the working American training voucher would be a tangible, concrete, and definable program that would address a core issue facing American workers. It will ensure that those who typically have the least access to training will be able to acquire the skills needed for their current jobs, while improving their jobs in the future. It is targeted to those who are

most in need of assistance, and will ensure that we no longer wait until an individual is out of work to provide help.

The Federal Government often promises the American people many things, but we can never offer peace of mind to a worker who doesn't know if his or her skills are adequate to keep them employed. Let's take a step in the right direction and at least ensure that those who have a job will not lose it due to a lack of access to training and new skills. Let's pass the Working American Training Voucher Act.

By Ms. MOSLEY-BRAUN:

S. 1171. A bill for the relief of Janina Altagracia Castillo-Rojas and her husband, Diogenes Patricio Rojas; to the Committee on the Judiciary.

PRIVATE RELIEF LEGISLATION

Ms. MOSELEY-BRAUN. Mr. President, I am introducing this bill today to provide relief to Janina Altagracia Castillo-Rojas and her husband, Diogenes Patricio Rojas. These two individuals, who currently reside in Chicago, IL, face deportation later this month to the Dominican Republic as a result of an absurd technicality in current Federal immigration law.

Ms. Rojas has been denied citizenship because her mother was the child of a U.S. citizen female and foreign male. Previous law allowed only children of U.S. citizen males and foreign females to claim U.S. citizenship.

Simply put, Mrs. Rojas has been denied U.S. citizenship because she had the ''misfortune'' of having a U.S. citizen grandmother instead of a U.S. citizen grandfather.

In 1994, Senator Paul Simon passed the Immigration and Nationality and Technical Corrections Act, which allowed individuals born overseas before 1934 to U.S. citizen mothers, and their descendants, to claim U.S. citizenship. As a result of that 1994 law, the mother of Janina Rojas applied for U.S. citizenship, which she received in January 1996.

When Janina Rojas attempted to derive citizenship as a descendant of a direct beneficiary of the 1994 law, however, her application was denied. Despite the 1994 law, the Immigration and Naturalization Service requires that the mother of Janina Rojas meet transmission requirements: the mother must have been physically present in the U.S. for 10 years prior to Janina's birth, 5 of which were after the age of 16 years, in order for Janina to derive citizenship. Since her mother was prohibited from becoming a U.S. citizen until 1996, however, it is unreasonable to require that she was in the U.S. for 10 years.

Clearly, while 60 years of discriminatory law was corrected in 1994, the citizenship qualifications of the line of descendants of those U.S. citizen females remain adversely impacted.

On May 1 of this year, I introduced a bill, S. 677, the Equity In Transmission of Citizenship Act of 1997, that will waive the parental transmission requirement for the grandchildren of U.S. citizen females. That bill has been referred to the Senate Judiciary Committee. While I am hopeful S. 677 will be promptly approved, it may not be approved before September 27, the deportation date of Mr. and Mrs. Rojas. The private relief bill I introduce today will provide an extension for Mr. and Mrs. Rojas so that S. 677 can be taken up and passed.

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

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

S. 1171

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

SECTION 1. PERMANENT RESIDENCE.

Notwithstanding any other provisions of law, for purposes of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), Janina Altagracia Castillo-Rojas and her husband, Diogenes Patrico Rojas, shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees.

SEC. 2. REDUCTION OF NUMBER OF AVAILABLE VISAS.

Upon the granting of permanent residence to Janina Altagracia Castillo-Rojas and her husband, Diogenes Patricio Rojas, as provided in this Act, the Secretary of State shall instruct the proper officer to reduce by the appropriate number during the current fiscal year the total number of immigrant visas available to natives of the country of the aliens' birth under section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)).

ADDITIONAL COSPONSORS

S. 294

At the request of Mrs. HUTCHISON, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 294, a bill to amend chapter 51 of title 18, United States Code, to establish Federal penalties for the killing or attempted killing of a law enforcement officer of the District of Columbia, and for other purposes.

S. 623

At the request of Mr. INOUYE, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 623, a bill to amend title 38, United States Code, to deem certain service in the organized military forces of the Government of the Commonwealth of the Philippines and the Philippine Scouts to have been active service for purposes of benefits under programs administered by the Secretary of Veterans Affairs.

S. 859

At the request of Mr. KYL, the name of the Senator from Texas [Mrs. HUTCHISON] was added as a cosponsor of S. 859, a bill to repeal the increase in tax on social security benefits.

S. 1037

At the request of Mr. JEFFORDS, the name of the Senator from Maine [Ms. SNOWE] was added as a cosponsor of S. 1037, a bill to amend the Internal Revenue Code of 1986 to establish incentives to increase the demand for and supply of quality child care, to provide incentives to States that improve the quality of child care, to expand clearinghouse and electronic networks for the distribution of child care information, to improve the quality of child care provided through Federal facilities and programs, and for other purposes.

S. 1154

At the request of Mr. REED, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 1154, a bill to amend the Electronic Fund Transfer Act to clarify consumer liability for unauthorized transactions involving debit cards that can be used like credit cards, and for other purposes.

SENATE RESOLUTION 94

At the request of Mr. WARNER, the name of the Senator from South Dakota [Mr. JOHNSON] was added as a cosponsor of Senate Resolution 94, a resolution commending the American Medical Association on its 150th anniversary, its 150 years of caring for the United States, and its continuing effort to uphold the principles upon which Nathan Davis, M.D. and his colleagues founded the American Medical Association to ''promote the science and art of medicine and the betterment of public health.''

SENATE RESOLUTION 119

At the request of Mr. FEINGOLD, the names of the Senator from North Dakota [Mr. DORGAN] and the Senator from North Dakota [Mr. CONRAD] were added as cosponsors of Senate Resolution 119, a resolution to express the sense of the Senate that the Secretary of Agriculture should establish a temporary emergency minimum milk price that is equitable to all producers nationwide and that provides price relief to economically distressed milk producers.

AMENDMENT NO. 1070

At the request of Mr. GREGG the names of the Senator from New Mexico [Mr. BINGAMAN], the Senator from Iowa [Mr. HARKIN], and the Senator from North Dakota [Mr. DORGAN] were added as cosponsors of amendment No. 1070 proposed to S. 1061, an original bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1998, and for other purposes.

AMENDMENT NO. 1122

At the request of Mr. GORTON the names of the Senator from North Carolina [Mr. HELMS] and the Senator from Indiana [Mr. COATS] were added as cosponsors of amendment No. 1122 proposed to S. 1061, an original bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1998, and for other purposes.

At the request of Mr. BINGAMAN his name, and the names of the Senator

from North Dakota [Mr. DORGAN], and the Senator from Iowa [Mr. HARKIN] were added as cosponsors of amendment No. 1122 proposed to S. 1061, supra.

SENATE CONCURRENT RESOLUTION 52—RELATIVE TO FTC RULING ON MADE IN USA LABELING

Mr. HOLLINGS (for himself and Mr. ABRAHAM) submitted the following concurrent resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. CON. RES. 52

Whereas for the past several decades the ''Made in USA'' label has defined a product as having all or virtually all of its parts and labor originating in the United States;

Whereas the people of the United States depend upon the integrity of this label when purchasing products;

Whereas the label projects a sense of pride for American workmanship and value;

Whereas the Federal Trade Commission has proposed regulations to lower this standard to allow substantial amounts of a product to be of foreign origin;

Whereas lowering this standard will be a misrepresentation to consumers in the United States who presently believe products bearing the ''Made in USA'' label were all or virtually all made in the United States;

Whereas consumers in the United States are entitled to purchase products with the understanding that the labels on these products reflect consistent definitions; and

Whereas the Federal Trade Commission is responsible for safeguarding the consumer from unfair, deceptive, and fraudulent practices: Now, therefore be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) maintains that the standard for the ''Made in USA'' label should continue to be that a product was all or virtually all made in the United States; and

(2) urges the Federal Trade Commission to refrain from lowering this standard at the expense of consumers and jobs in the United States.

Mr. HOLLINGS. Mr. President, today, along with Senator SPENCER ABRAHAM of Michigan, I am pleased to submit a resolution opposing a proposal by the Federal Trade Commission to allow the ''Made in the USA'' label to be applied by products that are not made in the United States. If the FTC's proposal were to take effect, it would result in misleading and inaccurate claims and could ultimately cause widespread deception and consumer confusion. Moreover, the FTC's proposal would encourage manufacturers to send U.S. jobs abroad.

The FTC's recent proposal would reverse 50 years of precedent by the use of the ''Made in USA'' label even for products with as much as 25 percent or more, foreign labor or materials if they were substantially transformed in the United States. In some instances this could result in a product being labeled as ''Made in the USA'', even if all of the product's materials or components were made abroad.

Under current rules, products can only be labeled as made in the USA. If all or virtually all of the products is made in the United States. This strict rule ensures that American consumers can rely on the assertions made by manufacturers, on U.S. made products. American consumers have come to rely on this label, as insurance that the components, materials, and labor used to make the product are from the United States. To change the standard would invite confusion and undermine the value of the made in the USA label.

The FTC's proposal is opposed by many of the country's leading consumer groups, including the National Consumer's League, the National Council of Senior Citizens, and Citizen Action. Moreover, many leading manufacturers, agriculture groups, and labor unions oppose changes to the current standard. In my State of South Carolina one of our pre-eminent manufactures, Nucor Steel Corp., is among the corporations opposed to the FTC changes.

In addition, by permitting manufacturers to mislabel their products, the FTC is encouraging American employers to transfer manufacturing of components or materials abroad. Because consumers prefer products made in the United States, the ''Made in USA'' label is strong incentive for manufacturers to keep jobs in the United States. By permitting manufacturers to shift manufacturing abroad where they can pay lower wages and still maintain the benefits of labeling products as made in the USA, the FTC is explicitly encouraging the transfer of jobs abroad.

AMENDMENTS SUBMITTED

THE FOOD AND DRUG ADMINISTRATION MODERNIZATION AND ACCOUNTABILITY ACT OF 1997 PRESCRIPTION DRUG USERS FEE REAUTHORIZATION ACT OF 1997

JEFFORDS AMENDMENT NO. 1130

Mr. JEFFORDS proposed an amendment to the bill (S. 830) to amend the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act to improve the regulation of food, drugs, devices, and biological products, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Food and Drug Administration Modernization and Accountability Act of 1997''.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. References.

TITLE I—IMPROVING PATIENT ACCESS

Sec. 101. Mission of the Food and Drug Administration.
Sec. 102. Expanded access to investigational therapies.
Sec. 103. Expanded humanitarian use of devices.

TITLE II—INCREASING ACCESS TO EXPERTISE AND RESOURCES

Sec. 201. Interagency collaboration.
Sec. 202. Sense of the committee regarding mutual recognition agreements and global harmonization efforts.
Sec. 203. Contracts for expert review.
Sec. 204. Accredited-party reviews.
Sec. 205. Device performance standards.

TITLE III—IMPROVING COLLABORATION AND COMMUNICATION

Sec. 301. Collaborative determinations of device data requirements.
Sec. 302. Collaborative review process.

TITLE IV—IMPROVING CERTAINTY AND CLARITY OF RULES

Sec. 401. Policy statements.
Sec. 402. Product classification.
Sec. 403. Use of data relating to premarket approval.
Sec. 404. Consideration of labeling claims for product review.
Sec. 405. Certainty of review timeframes.
Sec. 406. Limitations on initial classification determinations.
Sec. 407. Clarification with respect to a general use and specific use of a device.
Sec. 408. Clarification of the number of required clinical investigations for approval.
Sec. 409. Prohibited acts.

TITLE V—IMPROVING ACCOUNTABILITY

Sec. 501. Agency plan for statutory compliance and annual report.

TITLE VI—BETTER ALLOCATION OF RESOURCES BY SETTING PRIORITIES

Sec. 601. Minor modifications.
Sec. 602. Environmental impact review.
Sec. 603. Exemption of certain classes of devices from premarket notification requirement.
Sec. 604. Evaluation of automatic class III designation.
Sec. 605. Secretary's discretion to track devices.
Sec. 606. Secretary's discretion to conduct postmarket surveillance.
Sec. 607. Reporting.
Sec. 608. Pilot and small-scale manufacture.
Sec. 609. Requirements for radiopharmaceuticals.
Sec. 610. Modernization of regulation of biological products.
Sec. 611. Approval of supplemental applications for approved products.
Sec. 612. Health care economic information.
Sec. 613. Expediting study and approval of fast track drugs.
Sec. 614. Manufacturing changes for drugs and biologics.
Sec. 615. Data requirements for drugs and biologics.
Sec. 616. Food contact substances.
Sec. 617. Health claims for food products.
Sec. 618. Pediatric studies marketing exclusivity.
Sec. 619. Positron emission tomography.
Sec. 620. Disclosure.
Sec. 621. Referral statements relating to food nutrients.

TITLE VII—FEES RELATING TO DRUGS

Sec. 701. Short title.
Sec. 702. Findings.
Sec. 703. Definitions.
Sec. 704. Authority to assess and use drug fees.
Sec. 705. Annual reports.
Sec. 706. Effective date.
Sec. 707. Termination of effectiveness.

TITLE VIII—MISCELLANEOUS

Sec. 801. Registration of foreign establishments.

Sec. 802. Elimination of certain labeling requirements.
Sec. 803. Clarification of seizure authority.
Sec. 804. Intramural research training award program.
Sec. 805. Device samples.
Sec. 806. Interstate commerce.
Sec. 807. National uniformity for nonprescription drugs and cosmetics.
Sec. 808. Information program on clinical trials for serious or life-threatening diseases.
Sec. 809. Application of Federal law to the practice of pharmacy compounding.
Sec. 810. Reports of postmarketing approval studies.
Sec. 811. Information exchange.
Sec. 812. Reauthorization of clinical pharmacology program.
Sec. 813. Monograph for sunburn products.

SEC. 3. REFERENCES.

Except as otherwise expressly provided, wherever 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 Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.).

TITLE I—IMPROVING PATIENT ACCESS

SEC. 101. MISSION OF THE FOOD AND DRUG ADMINISTRATION.

Section 903 (21 U.S.C. 393) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following:

''(b) MISSION.—

''(1) IN GENERAL.—The Administration shall protect the public health by ensuring that—

''(A) foods are safe, wholesome, sanitary, and properly labeled;

''(B) human and veterinary drugs and biologics are safe and effective;

''(C) there is reasonable assurance of safety and effectiveness of devices intended for human use;

''(D) cosmetics are safe; and

''(E) public health and safety are protected from electronic product radiation.

''(2) SPECIAL RULES.—The Administration shall promptly and efficiently review clinical research and take appropriate action on the marketing of regulated products in a manner that does not unduly impede innovation or product availability. The Administration shall participate with other countries to reduce the burden of regulation, to harmonize regulatory requirements, and to achieve appropriate reciprocal arrangements with other countries.''.

SEC. 102. EXPANDED ACCESS TO INVESTIGATIONAL THERAPIES.

Chapter V (21 U.S.C. 351 et seq.) is amended by adding at the end the following:

''Subchapter D—Unapproved Therapies and Diagnostics

''SEC. 551. EXPANDED ACCESS TO UNAPPROVED THERAPIES AND DIAGNOSTICS.

''(a) EMERGENCY SITUATIONS.—The Secretary may, under appropriate conditions determined by the Secretary, authorize the shipment of investigational drugs (including investigational biological products), or investigational devices, (as defined in regulations prescribed by the Secretary) for the diagnosis, monitoring, or treatment of a serious disease or condition in emergency situations.

''(b) INDIVIDUAL PATIENT ACCESS TO INVESTIGATIONAL PRODUCTS INTENDED FOR SERIOUS DISEASES.—Any person, acting through a physician licensed in accordance with State law, may request from a manufacturer or distributor, and any manufacturer or distributor may provide to such physician after compliance with the provisions of this subsection, an investigational drug (including an investigational biological product), or investigational device, (as defined in regulations prescribed by the Secretary) for the diagnosis, monitoring, or treatment of a serious disease or condition if—

''(1) the licensed physician determines that the person has no comparable or satisfactory alternative therapy available to diagnose, monitor, or treat the disease or condition involved, and that the risk to the person from the investigational drug or investigational device is not greater than the risk from the disease or condition;

''(2) the Secretary determines that there is sufficient evidence of safety and effectiveness to support the use of the investigational drug or investigational device in the case described in paragraph (1);

''(3) the Secretary determines that provision of the investigational drug or investigational device will not interfere with the initiation, conduct, or completion of clinical investigations to support marketing approval; and

''(4) the product sponsor, or clinical investigator, of the investigational drug or investigational device submits to the Secretary a clinical protocol consistent with the provisions of section 505(i) or 520(g) and any regulations promulgated under section 505(i) or 520(g) describing the use of investigational drugs or investigational devices in a single patient or a small group of patients.

''(c) TREATMENT INDS/IDES.—Upon submission by a product sponsor or a physician of a protocol intended to provide widespread access to an investigational product for eligible patients, the Secretary shall permit an investigational drug (including an investigational biological product) or investigational device to be made available for expanded access under a treatment investigational new drug application or investigational device exemption (as the terms are described in regulations prescribed by the Secretary) if the Secretary determines that—

''(1) under the treatment investigational new drug application or investigational device exemption, the investigational drug or investigational device is intended for use in the diagnosis, monitoring, or treatment of a serious or immediately life-threatening disease or condition;

''(2) there is no comparable or satisfactory alternative therapy available to diagnose, monitor, or treat that stage of disease or condition in the population of patients to which the investigational drug or investigational device is intended to be administered;

''(3)(A) the investigational drug or investigational device is under investigation in a controlled clinical trial for the use described in paragraph (1) under an effective investigational new drug application or investigational device exemption; and

''(B) all clinical trials necessary for approval of that use of the investigational drug or investigational device have been completed;

''(4) the sponsor of the controlled clinical trials is actively pursuing marketing approval of the investigational drug or investigational device for the use described in paragraph (1) with due diligence;

''(5) the provision of the investigational drug or investigational device will not interfere with the enrollment of patients in ongoing clinical investigations under section 505(i) or 520(g);

''(6) in the case of serious diseases, there is sufficient evidence of safety and effectiveness to support the use described in paragraph (1); and

''(7) in the case of immediately life-threatening diseases, the available scientific evidence, taken as a whole, provides a reasonable basis to conclude that the product may be effective for its intended use and would not expose patients to an unreasonable and significant risk of illness or injury.

A protocol submitted under this subsection shall be subject to the provisions of section 505(i) or 520(g) and regulations promulgated under section 505(i) or 520(g). The Secretary may inform national, State, and local medical associations and societies, voluntary health associations, and other appropriate persons about the availability of an investigational drug or investigational device under expanded access protocols submitted under this subsection. The information provided by the Secretary, in accordance with the preceding sentence, shall be of the same type of information that is required by section 402(j)(3).

''(d) TERMINATION.—The Secretary may, at any time, with respect to a person, manufacturer, or distributor described in this section, terminate expanded access provided under this section for an investigational drug (including an investigational biological product) or investigational device if the requirements under this section are no longer met.''.

SEC. 103. EXPANDED HUMANITARIAN USE OF DEVICES.

Section 520(m) (21 U.S.C. 360j(m)) is amended—

(1) in paragraph (2), by adding at the end the following flush sentences:

''The request shall be in the form of an application submitted to the Secretary. Not later than 75 days after the date of the receipt of the application, the Secretary shall issue an order approving or denying the application.'';

(2) in paragraph (4)—

(A) in subparagraph (B), by inserting after ''(2)(A)'' the following: '', unless a physician determines that waiting for such an approval from an institutional review committee will cause harm or death to a patient, and makes a good faith effort to obtain the approval, and does not receive a timely response from an institutional review committee on the request of the physician for approval to use the device for such treatment or diagnosis''; and

(B) by adding at the end the following flush sentences:

''In a case in which a physician described in subparagraph (B) uses a device without an approval from an institutional review committee, the physician shall, after the use of the device, notify the chairperson of the institutional review committee of such use. Such notification shall include the identification of the patient involved, the date on which the device was used, and the reason for the use.''; and

(3) by striking paragraph (5) and inserting the following:

''(5) The Secretary may require a person granted an exemption under paragraph (2) to demonstrate continued compliance with the requirements of this subsection if the Secretary believes such demonstration to be necessary to protect the public health or if the Secretary has reason to believe that the criteria for the exemption are no longer met.''.

TITLE II—INCREASING ACCESS TO EXPERTISE AND RESOURCES

SEC. 201. INTERAGENCY COLLABORATION.

Section 903(b) (21 U.S.C. 393(b)), as added by section 101(2), is amended by adding at the end the following:

''(3) INTERAGENCY COLLABORATION.—The Secretary shall implement programs and policies that will foster collaboration between the Administration, the National Institutes of Health, and other science-based

Federal agencies, to enhance the scientific and technical expertise available to the Secretary in the conduct of the duties of the Secretary with respect to the development, clinical investigation, evaluation, and postmarket monitoring of emerging medical therapies, including complementary therapies, and advances in nutrition and food science.''.

SEC. 202. SENSE OF THE COMMITTEE REGARDING MUTUAL RECOGNITION AGREEMENTS AND GLOBAL HARMONIZATION EFFORTS.

It is the sense of the Committee on Labor and Human Resources of the Senate that—

(1) the Secretary of Health and Human Services should support the Office of the United States Trade Representative, in consultation with the Secretary of Commerce, in efforts to move toward the acceptance of mutual recognition agreements relating to the regulation of drugs, biological products, devices, foods, food additives, and color additives, and the regulation of good manufacturing practices, between the European Union and the United States;

(2) the Secretary of Health and Human Services should regularly participate in meetings with representatives of other foreign governments to discuss and reach agreement on methods and approaches to harmonize regulatory requirements; and

(3) the Office of International Relations of the Department of Health and Human Services (as established under section 803 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 383)) should have the responsibility of ensuring that the process of harmonizing international regulatory requirements is continuous.

SEC. 203. CONTRACTS FOR EXPERT REVIEW.

Chapter IX (21 U.S.C. 391 et seq.) is amended by adding at the end the following:

''SEC. 906. CONTRACTS FOR EXPERT REVIEW.

''(a) IN GENERAL.—

''(1) AUTHORITY.—The Secretary may enter into a contract with any organization or any individual (who is not an employee of the Department) with expertise in a relevant discipline, to review, evaluate, and make recommendations to the Secretary on part or all of any application or submission (including a petition, notification, and any other similar form of request) made under this Act for the approval or classification of an article or made under section 351(a) of the Public Health Service Act (42 U.S.C. 262(a)) with respect to a biological product. Any such contract shall be subject to the requirements of section 708 relating to the confidentiality of information.

''(2) INCREASED EFFICIENCY AND EXPERTISE THROUGH CONTRACTS.—The Secretary shall use the authority granted in paragraph (1) whenever the Secretary determines that a contract described in paragraph (1) will improve the timeliness or quality of the review of an application or submission described in paragraph (1), unless using such authority would reduce the quality, or unduly increase the cost, of such review. Such improvement may include providing the Secretary increased scientific or technical expertise that is necessary to review or evaluate new therapies and technologies.

''(b) REVIEW OF EXPERT REVIEW.—

''(1) IN GENERAL.—Subject to paragraph (2), the official of the Food and Drug Administration responsible for any matter for which expert review is used pursuant to subsection (a) shall review the recommendations of the organization or individual who conducted the expert review and shall make a final decision regarding the matter within 60 days after receiving the recommendations.

''(2) LIMITATION.—A final decision under paragraph (1) shall be made within the applicable prescribed time period for review of the matter as set forth in this Act or in the Public Health Service Act (42 U.S.C. 201 et seq.).

''(3) AUTHORITY OF SECRETARY.—Notwithstanding subsection (a), the Secretary shall retain full authority to make determinations with respect to the approval or disapproval of an article under this Act, the approval or disapproval of a biologics license with respect to a biological product under section 351(a) of the Public Health Service Act, or the classification of an article as a device under section 513(f)(1).''.

SEC. 204. ACCREDITED-PARTY REVIEWS.

(a) IN GENERAL.—Subchapter A of chapter V (21 U.S.C. 351 et seq.) is amended by adding at the end the following:

''SEC. 523. ACCREDITED-PARTY PARTICIPATION.

''(a) ACCREDITATION.—Not later than 1 year after the date of enactment of this section, the Secretary shall accredit entities or individuals who are not employees of the Federal Government to review reports made to the Secretary under section 510(k) for devices and make recommendations to the Secretary regarding the initial classification of such devices under section 513(f)(1), except that this paragraph shall not apply to a report made to the Secretary under section 510(k) for a device that is—

''(1) for a use in supporting or sustaining human life;

''(2) for implantation in the human body for more than 1 year; or

''(3) for a use that is of substantial importance in preventing the impairment of human health.

''(b) ACCREDITATION.—Within 180 days after the date of enactment of this section, the Secretary shall adopt methods of accreditation that ensure that entities or individuals who conduct reviews and make recommendations under this section are qualified, properly trained, knowledgeable about handling confidential documents and information, and free of conflicts of interest. The Secretary shall publish the methods of accreditation in the Federal Register on the adoption of the methods.

''(c) WITHDRAWAL OF ACCREDITATION.—The Secretary may suspend or withdraw the accreditation of any entity or individual accredited under this section, after providing notice and an opportunity for an informal hearing, if such entity or individual acts in a manner that is substantially not in compliance with the requirements established by the Secretary under subsection (b), including the failure to avoid conflicts of interest, the failure to protect confidentiality of information, or the failure to competently review premarket submissions for devices.

''(d) SELECTION AND COMPENSATION.—A person who intends to make a report described in subsection (a) to the Secretary shall have the option to select an accredited entity or individual to review such report. Upon the request by a person to have a report reviewed by an accredited entity or individual, the Secretary shall identify for the person no less than 2 accredited entities or individuals from whom the selection may be made. Compensation for an accredited entity or individual shall be determined by agreement between the accredited entity or individual and the person who engages the services of the accredited entity or individual and shall be paid by the person who engages such services.

''(e) REVIEW BY SECRETARY.—

''(1) IN GENERAL.—The Secretary shall require an accredited entity or individual, upon making a recommendation under this section with respect to an initial classification of a device, to notify the Secretary in writing of the reasons for such recommendation.

''(2) TIME PERIOD FOR REVIEW.—Not later than 30 days after the date on which the Secretary is notified under paragraph (1) by an accredited entity or individual with respect to a recommendation of an initial classification of a device, the Secretary shall make a determination with respect to the initial classification.

''(3) SPECIAL RULE.—The Secretary may change the initial classification under section 513(f)(1) that is recommended by the accredited entity or individual under this section, and in such case shall notify in writing the person making the report described in subsection (a) of the detailed reasons for the change.

''(f) DURATION.—The authority provided by this section terminates—

''(1) 5 years after the date on which the Secretary notifies Congress that at least 2 persons accredited under subsection (b) are available to review at least 60 percent of the submissions under section 510(k); or

''(2) 4 years after the date on which the Secretary notifies Congress that at least 35 percent of the devices that are subject to review under subsection (a), and that were the subject of final action by the Secretary in the fiscal year preceding the date of such notification, were reviewed by the Secretary under subsection (e),

whichever occurs first.

''(g) REPORT.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Secretary shall contract with an independent research organization to prepare and submit to the Secretary a written report examining the use of accredited entities and individuals to conduct reviews under this section. The Secretary shall submit the report to Congress not later than 6 months prior to the conclusion of the applicable period described in subsection (f).

''(2) CONTENTS.—The report by the independent research organization described in paragraph (1) shall identify the benefits or detriments to public and patient health of using accredited entities and individuals to conduct such reviews, and shall summarize all relevant data, including data on the review of accredited entities and individuals (including data on the review times, recommendations, and compensation of the entities and individuals), and data on the review of the Secretary (including data on the review times, changes, and reasons for changes of the Secretary).''.

(b) RECORDKEEPING.—Section 704 (21 U.S.C. 374) is amended by adding at the end the following:

''(f)(1) A person accredited under section 523 to review reports made under section 510(k) and make recommendations of initial classifications of devices to the Secretary shall maintain records documenting the training qualifications of the person and the employees of the person, the procedures used by the person for handling confidential information, the compensation arrangements made by the person in accordance with section 523(d), and the procedures used by the person to identify and avoid conflicts of interest. Upon the request of an officer or employee designated by the Secretary, the person shall permit the officer or employee, at all reasonable times, to have access to, to copy, and to verify, the records.

''(2) Within 15 days after the receipt of a written request from the Secretary to a person accredited under section 523 for copies of records described in paragraph (1), the person shall produce the copies of the records at the place designated by the Secretary.''.

SEC. 205. DEVICE PERFORMANCE STANDARDS.

(a) ALTERNATIVE PROCEDURE.—Section 514 (21 U.S.C. 360d) is amended by adding at the end the following:

''Recognition of a Standard

''(c)(1)(A) In addition to establishing performance standards under this section, the Secretary may, by publication in the Federal Register, recognize all or part of a performance standard established by a nationally or internationally recognized standard development organization for which a person may submit a declaration of conformity in order to meet premarket submission requirements or other requirements under this Act to which such standards are applicable.

''(B) If a person elects to use a performance standard recognized by the Secretary under subparagraph (A) to meet the requirements described in subparagraph (A), the person shall provide a declaration of conformity to the Secretary that certifies that the device is in conformity with such standard. A person may elect to use data, or information, other than data required by a standard recognized under subparagraph (A) to fulfill or satisfy any requirement under this Act.

''(2) The Secretary may withdraw such recognition of a performance standard through publication of a notice in the Federal Register that the Secretary will no longer recognize the standard, if the Secretary determines that the standard is no longer appropriate for meeting the requirements under this Act.

''(3)(A) Subject to subparagraph (B), the Secretary shall accept a declaration of conformity that a device is in conformity with a standard recognized under paragraph (1) unless the Secretary finds—

''(i) that the data or information submitted to support such declaration does not demonstrate that the device is in conformity with the standard identified in the declaration of conformity; or

''(ii) that the standard identified in the declaration of conformity is not applicable to the particular device under review.

''(B) The Secretary may request, at any time, the data or information relied on by the person to make a declaration of conformity with respect to a standard recognized under paragraph (1).

''(C) A person relying on a declaration of conformity with respect to a standard recognized under paragraph (1) shall maintain the data and information demonstrating conformity of the device to the standard for a period of 2 years after the date of the classification or approval of the device by the Secretary or a period equal to the expected design life of the device, whichever is longer.''.

(b) SECTION 301.—Section 301 (21 U.S.C. 331) is amended by adding at the end the following:

''(x) The falsification of a declaration of conformity submitted under subsection (c) of section 514 or the failure or refusal to provide data or information requested by the Secretary under section 514(c)(3).''.

(c) SECTION 501.—Section 501(e) (21 U.S.C. 351(e)) is amended—

(1) by striking ''(e)'' and inserting ''(e)(1)''; and

(2) by inserting at the end the following:

''(2) If it is declared to be, purports to be, or is represented as, a device that is in conformity with any performance standard recognized under section 514(c) unless such device is in all respects in conformity with such standard.''.

TITLE III—IMPROVING COLLABORATION AND COMMUNICATION

SEC. 301. COLLABORATIVE DETERMINATIONS OF DEVICE DATA REQUIREMENTS.

Section 513(a)(3) (21 U.S.C. 360c(a)(3)) is amended by adding at the end the following:

''(C)(i)(I) The Secretary, upon the written request of any person intending to submit an application under section 515, shall meet with such person to determine the type of valid scientific evidence (within the meaning of subparagraphs (A) and (B)) that will be necessary to demonstrate the effectiveness of a device for the conditions of use proposed by such person, to support an approval of an application. The written request shall include a detailed description of the device, a detailed description of the proposed conditions of use of the device, a proposed plan for determining whether there is a reasonable assurance of effectiveness, and, if available, information regarding the expected performance from the device. Within 30 days after such meeting, the Secretary shall specify in writing the type of valid scientific evidence that will provide a reasonable assurance that a device is effective under the conditions of use proposed by such person.

''(II) Any clinical data, including 1 or more well-controlled investigations, specified in writing by the Secretary for demonstrating a reasonable assurance of device effectiveness shall be specified as a result of a determination by the Secretary—

''(aa) that such data are necessary to establish device effectiveness; and

''(bb) that no other less burdensome means of evaluating device effectiveness is available that would have a reasonable likelihood of resulting in an approval.

''(ii) The determination of the Secretary with respect to the specification of valid scientific evidence under clause (i) shall be binding upon the Secretary, unless such determination by the Secretary is contrary to the public health.''.

SEC. 302. COLLABORATIVE REVIEW PROCESS.

Section 515(d) (21 U.S.C. 360e(d)) is amended—

(1) in paragraph (1)(A), by striking ''paragraph (2) of this subsection'' each place it appears and inserting ''paragraph (4)'';

(2) by redesignating paragraphs (2) and (3) as paragraphs (4) and (5), respectively; and

(3) by inserting after paragraph (1) the following:

''(2)(A)(i) The Secretary shall, upon the written request of an applicant, meet with the applicant, not later than 100 days after the receipt of an application from the applicant that has been filed as complete under subsection (c), to discuss the review status of the application.

''(ii) If the application does not appear in a form that would require an approval under this subsection, the Secretary shall in writing, and prior to the meeting, provide to the applicant a description of any deficiencies in the application identified by the Secretary based on an interim review of the entire application and identify the information that is required to correct those deficiencies.

''(iii) The Secretary and the applicant may, by mutual consent, establish a different schedule for a meeting required under this paragraph.

''(B) The Secretary shall notify the applicant immediately of any deficiency identified in the application that was not described as a deficiency in the written description provided by the Secretary under subparagraph (A).''.

TITLE IV—IMPROVING CERTAINTY AND CLARITY OF RULES

SEC. 401. POLICY STATEMENTS.

Section 701(a) (21 U.S.C. 371(a)) is amended—

(1) by striking ''(a) The'' and inserting ''(a)(1) The''; and

(2) by adding at the end the following:

''(2) Not later than February 27, 1999, the Secretary, after evaluating the effectiveness of the Good Guidance Practices document published in the Federal Register at 62 Fed. Reg. 8961, shall promulgate a regulation specifying the policies and procedures of the Food and Drug Administration for the development, issuance, and use of guidance documents.''.

SEC. 402. PRODUCT CLASSIFICATION.

Chapter VII (21 U.S.C. 371 et seq.) is amended by adding at the end the following:

''Subchapter D—Classification of Products and Environmental Impact Reviews

''SEC. 741. CLASSIFICATION OF PRODUCTS.

''(a) REQUEST.—A person who submits an application or submission (including a petition, notification, and any other similar form of request) under this Act, may submit a request to the Secretary respecting the classification of an article as a drug, biological product, device, or a combination product subject to section 503(g) or respecting the component of the Food and Drug Administration that will regulate the article. In submitting the request, the person shall recommend a classification for the article, or a component to regulate the article, as appropriate.

''(b) STATEMENT.—Not later than 60 days after the receipt of the request described in subsection (a), the Secretary shall determine the classification of the article or the component of the Food and Drug Administration that will regulate the article and shall provide to the person a written statement that identifies the classification of the article or the component of the Food and Drug Administration that will regulate the article and the reasons for such determination. The Secretary may not modify such statement except with the written consent of the person or for public health reasons.

''(c) INACTION OF SECRETARY.—If the Secretary does not provide the statement within the 60-day period described in subsection (b), the recommendation made by the person under subsection (a) shall be considered to be a final determination by the Secretary of the classification of the article or the component of the Food and Drug Administration that will regulate the article and may not be modified by the Secretary except with the written consent of the person or for public health reasons.''.

SEC. 403. USE OF DATA RELATING TO PREMARKET APPROVAL.

(a) IN GENERAL.—Section 520(h)(4) (21 U.S.C. 360j(h)(4)) is amended to read as follows:

''(4)(A) Any information contained in an application for premarket approval filed with the Secretary pursuant to section 515(c) (including information from clinical and preclinical tests or studies that demonstrate the safety and effectiveness of a device, but excluding descriptions of methods of manufacture and product composition) shall be available, 6 years after the application has been approved by the Secretary, for use by the Secretary in—

''(i) approving another device;

''(ii) determining whether a product development protocol has been completed, under section 515 for another device;

''(iii) establishing a performance standard or special control under this Act; or

''(iv) classifying or reclassifying another device under section 513 and subsection (l)(2).

''(B) The publicly available detailed summaries of information respecting the safety and effectiveness of devices required by paragraph (1)(A) shall be available for use by the Secretary as the evidentiary basis for the agency actions described in subparagraph (A).''.

(b) CONFORMING AMENDMENT.—Section 517(a) (21 U.S.C. 360g(a)) is amended—

(1) in paragraph (8), by adding ''or'' at the end;

(2) in paragraph (9), by striking '', or'' and inserting a comma; and

(3) by striking paragraph (10).

SEC. 404. CONSIDERATION OF LABELING CLAIMS FOR PRODUCT REVIEW.

(a) PREMARKET APPROVAL.—Section 515(d)(1)(A) (21 U.S.C. 360e(d)(1)(A)) is amended by adding at the end the following flush sentences:

''In making the determination whether to approve or deny the application, the Secretary shall rely on the conditions of use included in the proposed labeling as the basis for determining whether or not there is a reasonable assurance of safety and effectiveness, if the proposed labeling is neither false nor misleading. In determining whether or not such labeling is false or misleading, the Secretary shall fairly evaluate all material facts pertinent to the proposed labeling.''.

(b) PREMARKET NOTIFICATION.—Section 513(i)(1) (21 U.S.C. 360c(i)(1)) is amended by adding at the end the following:

''(C) Whenever the Secretary requests information to demonstrate that the devices with differing technological characteristics are substantially equivalent, the Secretary shall only request information that is necessary to make a substantial equivalence determination. In making such a request, the Secretary shall consider the least burdensome means of demonstrating substantial equivalence and shall request information accordingly.

''(D) The determination of the Secretary under this subsection and section 513(f)(1) with respect to the intended use of a device shall be based on the intended use included in the proposed labeling of the device submitted in a report under section 510(k).''.

(c) RULE OF CONSTRUCTION.—Nothing in the amendment made by subsection (b) shall be construed to alter any authority of the Secretary of Health and Human Services to regulate any nicotine-delivery device.ca

SEC. 405. CERTAINTY OF REVIEW TIMEFRAMES.

(a) CLARIFICATION ON THE 90-DAY TIMEFRAME FOR PREMARKET NOTIFICATION REVIEWS.—Section 510(k) (21 U.S.C. 360) is amended by adding at the end the following flush sentence:

''The Secretary shall review the report required by this subsection and make a determination under section 513(f)(1) not later than 90 days after receiving the report.''.

(b) ONE-CYCLE REVIEW.—Section 515(d) (21 U.S.C. 360e(d)), as amended by section 302, is amended by inserting after paragraph (2) the following:

''(3) Except as provided in paragraph (1), the period for the review of an application by the Secretary under this subsection shall be not more than 180 days. Such period may not be restarted or extended even if the application is amended. The Secretary is not required to review a major amendment to an application, unless the amendment is made in response to a request by the Secretary for information.''.

SEC. 406. LIMITATIONS ON INITIAL CLASSIFICATION DETERMINATIONS.

Section 510 (21 U.S.C. 360) is amended by adding at the end the following:

''(m) The Secretary may not withhold a determination of the initial classification of a device under section 513(f)(1) because of a failure to comply with any provision of this Act that is unrelated to a substantial equivalence decision, including a failure to comply with the requirements relating to good manufacturing practices under section 520(f).''.

SEC. 407. CLARIFICATION WITH RESPECT TO A GENERAL USE AND SPECIFIC USE OF A DEVICE.

Not later than 270 days after the date of enactment of this section, the Secretary of Health and Human Services shall promulgate a final regulation specifying the general principles that the Secretary of Health and Human Services will consider in determining when a specific intended use of a device is not reasonably included within a general use of such device for purposes of a determination of substantial equivalence under section 513(f)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360c(f)(1)).

SEC. 408. CLARIFICATION OF THE NUMBER OF REQUIRED CLINICAL INVESTIGATIONS FOR APPROVAL.

(a) DEVICE CLASSES.—Section 513(a)(3)(A) (21 U.S.C. 360c(a)(3)(A)) is amended by striking ''clinical investigations'' and inserting ''1 or more clinical investigations''.

(b) NEW DRUGS.—Section 505(d) (21 U.S.C. 355(d)) is amended by adding at the end the following: ''Substantial evidence may, as appropriate, consist of data from 1 adequate and well-controlled clinical investigation and confirmatory evidence (obtained prior to or after such investigation), if the Secretary determines, based on relevant science, that such data and evidence are sufficient to establish effectiveness.''.

SEC. 409. PROHIBITED ACTS.

Section 301(*l*) (21 U.S.C. 331(*l*)) is repealed.

TITLE V—IMPROVING ACCOUNTABILITY

SEC. 501. AGENCY PLAN FOR STATUTORY COMPLIANCE AND ANNUAL REPORT.

Section 903(b) (21 U.S.C. 393(b)), as amended by section 201, is further amended by adding at the end the following:

''(4) AGENCY PLAN FOR STATUTORY COMPLIANCE.—

''(A) IN GENERAL.—Not later than 180 days after the date of enactment of this paragraph, the Secretary, after consultation with relevant experts, health care professionals, representatives of patient and consumer advocacy groups, and the regulated industry, shall develop and publish in the Federal Register a plan bringing the Secretary into compliance with each of the obligations of the Secretary under this Act and other relevant statutes. The Secretary shall biannually review the plan and shall revise the plan as necessary, in consultation with such persons.

''(B) OBJECTIVES OF AGENCY PLAN.—The plan required by subparagraph (A) shall establish objectives, and mechanisms to be used by the Secretary, acting through the Commissioner, including objectives and mechanisms that—

''(i) minimize deaths of, and harm to, persons who use or may use an article regulated under this Act;

''(ii) maximize the clarity of, and the availability of information about, the process for review of applications and submissions (including petitions, notifications, and any other similar forms of request) made under this Act, including information for potential consumers and patients concerning new products;

''(iii) implement all inspection and postmarket monitoring provisions of this Act by July 1, 1999;

''(iv) ensure access to the scientific and technical expertise necessary to ensure compliance by the Secretary with the statutory obligations described in subparagraph (A);

''(v) establish a schedule to bring the Administration into full compliance by July 1, 1999, with the time periods specified in this Act for the review of all applications and submissions described in clause (ii) and submitted after the date of enactment of this paragraph; and

''(vi) reduce backlogs in the review of all applications and submissions described in clause (ii) for any article with the objective of eliminating all backlogs in the review of the applications and submissions by January 1, 2000.

''(5) ANNUAL REPORT.—

''(A) CONTENTS.—The Secretary shall prepare and publish in the Federal Register and solicit public comment on an annual report that—

''(i) provides detailed statistical information on the performance of the Secretary under the plan described in paragraph (4);

''(ii) compares such performance of the Secretary with the objectives of the plan and with the statutory obligations of the Secretary;

''(iii) analyzes any failure of the Secretary to achieve any objective of the plan or to meet any statutory obligation;

''(iv) identifies any regulatory policy that has a significant impact on compliance with any objective of the plan or any statutory obligation; and

''(v) sets forth any proposed revision to any such regulatory policy, or objective of the plan that has not been met.

''(B) STATISTICAL INFORMATION.—The statistical information described in subparagraph (A)(i) shall include a full statistical presentation relating to all applications and submissions (including petitions, notifications, and any other similar forms of request) made under this Act and approved or subject to final action by the Secretary during the year covered by the report. In preparing the statistical presentation, the Secretary shall take into account the date of—

''(i) the submission of any investigational application;

''(ii) the application of any clinical hold;

''(iii) the submission of any application or submission (including a petition, notification, and any other similar form of request) made under this Act for approval or clearance;

''(iv) the acceptance for filing of any application or submission described in clause (iii) for approval or clearance;

''(v) the occurrence of any unapprovable action;

''(vi) the occurrence of any approvable action; and

''(vii) the approval or clearance of any application or submission described in clause (iii).

''(C) SPECIAL RULE.—If the Secretary provides information in a report required by section 705 of the Food and Drug Administration Modernization and Accountability Act of 1997 or a report required by the amendments made by the Government Performance and Results Act of 1993 and that information is required by this paragraph, the report shall be deemed to satisfy the requirements of this paragraph relating to that information.''.

TITLE VI—BETTER ALLOCATION OF RESOURCES BY SETTING PRIORITIES

SEC. 601. MINOR MODIFICATIONS.

(a) ACTION ON INVESTIGATIONAL DEVICE EXEMPTIONS.—Section 520(g) (21 U.S.C. 360j(g)) is amended by adding at the end the following:

''(6)(A) The Secretary shall, not later than 120 days after the date of enactment of this paragraph, by regulation modify parts 812 and 813 of title 21, Code of Federal Regulations to update the procedures and conditions under which a device intended for human use may, upon application by the sponsor of the device, be granted an exemption from the requirements of this Act.

''(B) The regulation shall permit developmental changes in a device (including manufacturing changes) in response to information collected during an investigation without requiring an additional approval of an application for an investigational device exemption or the approval of a supplement to such application, if the sponsor of the investigation determines, based on credible information, prior to making any such changes, that the changes—

''(i) do not affect the scientific soundness of an investigational plan submitted under

paragraph (3)(A) or the rights, safety, or welfare of the human subjects involved in the investigation; and

''(ii) do not constitute a significant change in design, or a significant change in basic principles of operation, of the device.''.

(b) ACTION ON APPLICATION.—Section 515(d)(1)(B) (21 U.S.C. 360e(d)(1)(B)) is amended by adding at the end the following:

''(iii) The Secretary shall accept and review data and any other information from investigations conducted under the authority of regulations required by section 520(g), to make a determination of whether there is a reasonable assurance of safety and effectiveness of a device subject to a pending application under this section if—

''(I) the data or information is derived from investigations of an earlier version of the device, the device has been modified during or after the investigations (but prior to submission of an application under subsection (c)) and such a modification of the device does not constitute a significant change in the design or in the basic principles of operation of the device that would invalidate the data or information; or

''(II) the data or information relates to a device approved under this section, is available for use under this Act, and is relevant to the design and intended use of the device for which the application is pending.''.

(c) ACTION ON SUPPLEMENTS.—Section 515(d) (21 U.S.C. 360e(d)), as amended by section 302, is further amended by adding at the end the following:

''(6)(A)(i) A supplemental application shall be required for any change to a device subject to an approved application under this subsection that affects safety or effectiveness, unless such change is a modification in a manufacturing procedure or method of manufacturing and the holder of the approved application submits a written notice to the Secretary that describes in detail the change, summarizes the data or information supporting the change, and informs the Secretary that the change has been made under the requirements of section 520(f).

''(ii) The holder of an approved application who submits a notice under clause (i) with respect to a manufacturing change of a device may distribute the device 30 days after the date on which the Secretary receives the notice, unless the Secretary within such 30-day period notifies the holder that the notice is not adequate and describes such further information or action that is required for acceptance of such change. If the Secretary notifies the holder that a premarket approval supplement is required, the Secretary shall review the supplement within 135 days after the receipt of the supplement. The time used by the Secretary to review the notice of the manufacturing change shall be deducted from the 135-day review period if the notice meets appropriate content requirements for premarket approval supplements.

''(B)(i) Subject to clause (ii), in reviewing a supplement to an approved application, for an incremental change to the design of a device that affects safety or effectiveness, the Secretary shall approve such supplement if—

''(I) nonclinical data demonstrate that the design modification creates the intended additional capacity, function, or performance of the device; and

''(II) clinical data from the approved application and any supplement to the approved application provide a reasonable assurance of safety and effectiveness for the changed device.

''(ii) The Secretary may require, when necessary, additional clinical data to evaluate the design modification of the device to provide a reasonable assurance of safety and effectiveness.''.

SEC. 602. ENVIRONMENTAL IMPACT REVIEW.

Chapter VII (21 U.S.C. 371 et seq.), as amended by section 402, is further amended by adding at the end the following:

''SEC. 742. ENVIRONMENTAL IMPACT REVIEW.

''Notwithstanding any other provision of law, no action by the Secretary pursuant to this Act shall be subject to an environmental assessment, an environmental impact statement, or other environmental consideration unless the Secretary demonstrates, in writing—

''(1) that there is a reasonable probability that the environmental impact of the action is sufficiently substantial and within the factors that the Secretary is authorized to consider under this Act; and

''(2) that consideration of the environmental impact will directly affect the decision on the action.''.

SEC. 603. EXEMPTION OF CERTAIN CLASSES OF DEVICES FROM PREMARKET NOTIFICATION REQUIREMENT.

(a) CLASS I AND CLASS II DEVICES.—Section 510(k) (21 U.S.C. 360(k)) is amended by striking ''intended for human use'' and inserting ''intended for human use (except a device that is classified into class I under section 513 or 520 unless the Secretary determines such device is intended for a use that is of substantial importance in preventing impairment of human health or such device presents a potential unreasonable risk of illness or injury, or a device that is classified into class II under section 513 or 520 and is exempt from the requirements of this subsection under subsection (l))''.

(b) PUBLICATION OF EXEMPTION.—Section 510 (21 U.S.C. 360) is amended by inserting after subsection (k) the following:

''(l)(1) Not later than 30 days after the date of enactment of this subsection, the Secretary shall publish in the Federal Register a list of each type of class II device that does not require a notification under subsection (k) to provide reasonable assurance of safety and effectiveness. Each type of class II device identified by the Secretary not to require the notification shall be exempt from the requirement to provide notification under subsection (k) as of the date of the publication of the list in the Federal Register.

''(2) Beginning on the date that is 1 day after the date of the publication of a list under this subsection, the Secretary may exempt a class II device from the notification requirement of subsection (k), upon the Secretary's own initiative or a petition of an interested person, if the Secretary determines that such notification is not necessary to assure the safety and effectiveness of the device. The Secretary shall publish in the Federal Register notice of the intent of the Secretary to exempt the device, or of the petition, and provide a 30-day period for public comment. Within 120 days after the issuance of the notice in the Federal Register, the Secretary shall publish an order in the Federal Register that sets forth the final determination of the Secretary regarding the exemption of the device that was the subject of the notice.''.

SEC. 604. EVALUATION OF AUTOMATIC CLASS III DESIGNATION.

Section 513(f) (21 U.S.C. 360c(f)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by striking ''paragraph (2)'' and inserting ''paragraph (3)''; and

(B) in the last sentence, by striking ''paragraph (2)'' and inserting ''paragraph (2) or (3)'';

(2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(3) by inserting after paragraph (1) the following:

''(2)(A) Any person who submits a report under section 510(k) for a type of device that has not been previously classified under this Act, and that is classified into class III under paragraph (1), may request, within 30 days after receiving written notice of such a classification, the Secretary to classify the device under the criteria set forth in subparagraphs (A) through (C) subsection (a)(1). The person may, in the request, recommend to the Secretary a classification for the device. Any such request shall describe the device and provide detailed information and reasons for the recommended classification.

''(B)(i) Not later than 60 days after the date of the submission of the request under subparagraph (A) for classification of a device under the criteria set forth in subparagraphs (A) through (C) of subsection (a)(1), the Secretary shall by written order classify the device. Such classification shall be the initial classification of the device for purposes of paragraph (1) and any device classified under this paragraph shall be a predicate device for determining substantial equivalence under paragraph (1).

''(ii) A device that remains in class III under this subparagraph shall be deemed to be adulterated within the meaning of section 501(f)(1)(B) until approved under section 515 or exempted from such approval under section 520(g).

''(C) Within 30 days after the issuance of an order classifying a device under this paragraph, the Secretary shall publish a notice in the Federal Register announcing such classification.''.

SEC. 605. SECRETARY'S DISCRETION TO TRACK DEVICES.

(a) RELEASE OF INFORMATION.—Section 519(e) (21 U.S.C. 360i(e)) is amended by adding at the end the following flush sentence:

''Any patient receiving a device subject to tracking under this section may refuse to release, or refuse permission to release, the patient's name, address, social security number, or other identifying information for the purpose of tracking.''.

(b) PUBLICATION OF CERTAIN DEVICES.—Not later than 180 days after the date of enactment of this Act, the Secretary of Health and Human Services shall develop and publish in the Federal Register a list that identifies each type of device subject to tracking under section 519(e)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360i(e)(1)). Each device not identified by the Secretary of Health and Human Services under this subsection or designated by the Secretary under section 519(e)(2) shall be deemed to be exempt from the mandatory tracking requirement under section 519 of such Act. The Secretary of Health and Human Services shall have authority to modify the list of devices exempted from the mandatory tracking requirements.

SEC. 606. SECRETARY'S DISCRETION TO CONDUCT POSTMARKET SURVEILLANCE.

(a) IN GENERAL.—Section 522 (21 U.S.C. 360*l*) is amended by striking ''SEC. 522.'' and all that follows through ''(2) DISCRETIONARY SURVEILLANCE.—The'' and inserting the following:

''SEC. 522. (a) DISCRETIONARY SURVEILLANCE.—The''.

(b) SURVEILLANCE APPROVAL.—Section 522(b) (21 U.S.C. 360*l*(b)) is amended to read as follows:

''(b) SURVEILLANCE APPROVAL.—

''(1) IN GENERAL.—Each manufacturer that receives notice from the Secretary that the manufacturer is required to conduct surveillance of a device under subsection (a) shall, not later than 30 days after receiving the notice, submit for the approval of the Secretary, a plan for the required surveillance.

''(2) DETERMINATION.—Not later than 60 days after the receipt of the plan, the Secretary shall determine if a person proposed

in the plan to conduct the surveillance has sufficient qualifications and experience to conduct the surveillance and if the plan will result in the collection of useful data that can reveal unforeseen adverse events or other information necessary to protect the public health and to provide safety and effectiveness information for the device.

''(3) LIMITATION ON PLAN APPROVAL.—The Secretary may not approve the plan until the plan has been reviewed by a qualified scientific and technical review committee established by the Secretary.''.

SEC. 607. REPORTING.

(a) REPORTS.—Section 519 (21 U.S.C. 360i) is amended—

(1) in subsection (a)—

(A) in the first sentence by striking ''make such reports, and provide such information,'' and inserting ''and each such manufacturer or importer shall make such reports, provide such information, and submit such samples and components of devices (as required by paragraph (10)),'';

(B) in paragraph (8), by striking ''; and'' and inserting a semicolon; and

(C) by striking paragraph (9) and inserting the following:

''(9) shall require distributors to keep records and make such records available to the Secretary upon request; and'';

(2) by striking subsection (d); and

(3) in subsection (f), by striking '', importer, or distributor'' each place it appears and inserting ''or importer''.

(b) REGISTRATION.—Section 510(g) (21 U.S.C. 360(g)) is amended—

(1) by redesignating paragraph (4) as paragraph (5);

(2) by inserting after paragraph (3), the following:

''(4) any distributor who acts as a wholesale distributor of devices, and who does not manufacture, repackage, process, or relabel a device; or''; and

(3) by adding at the end the following flush sentence:

''In this subsection, the term 'wholesale distributor' means any person who distributes a device from the original place of manufacture to the person who makes the final delivery or sale of the device to the ultimate consumer or user.''.

SEC. 608. PILOT AND SMALL-SCALE MANUFACTURE.

(a) NEW DRUGS.—Section 505(c) (21 U.S.C. 355(c)) is amended by adding at the end the following:

''(4) A new drug manufactured in a pilot or other small facility may be used to demonstrate the safety and effectiveness of the new drug and to obtain approval of the new drug prior to scaling up to a larger facility, unless the Secretary determines that a full scale production facility is necessary to ensure the safety or effectiveness of the new drug.''.

(b) NEW ANIMAL DRUGS.—Section 512(c) (21 U.S.C. 360b(c)) is amended by adding at the end the following:

''(4) A new animal drug manufactured in a pilot or other small facility may be used to demonstrate the safety and effectiveness of the new drug and to obtain approval of the new drug prior to scaling up to a larger facility, unless the Secretary determines that a full scale production facility is necessary to ensure the safety or effectiveness of the new drug.''.

SEC. 609. REQUIREMENTS FOR RADIOPHARMACEUTICALS.

(a) REQUIREMENTS.—

(1) REGULATIONS.—

(A) PROPOSED REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary of Health and Human Services, after consultation with patient advocacy groups, associations, physicians licensed to use radiopharmaceuticals, and the regulated industry, shall issue proposed regulations governing the approval of radiopharmaceuticals designed for diagnosis and monitoring of diseases and conditions. The regulations shall provide that the determination of the safety and effectiveness of such a radiopharmaceutical under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) or section 351 of the Public Health Service Act (42 U.S.C. 262) shall include (but not be limited to) consideration of the proposed use of the radiopharmaceutical in the practice of medicine, the pharmacological and toxicological activity of the radiopharmaceutical (including any carrier or ligand component of the radiopharmaceutical), and the estimated absorbed radiation dose of the radiopharmaceutical.

(B) FINAL REGULATIONS.—Not later than 18 months after the date of enactment of this Act, the Secretary shall promulgate final regulations governing the approval of the radiopharmaceuticals.

(2) SPECIAL RULE.—In the case of a radiopharmaceutical intended to be used for diagnostic or monitoring purposes, the indications for which such radiopharmaceutical is approved for marketing may, in appropriate cases, refer to manifestations of disease (such as biochemical, physiological, anatomic, or pathological processes) common to, or present in, 1 or more disease states.

(b) DEFINITION.—In this section, the term ''radiopharmaceutical'' means—

(1) an article—

(A) that is intended for use in the diagnosis or monitoring of a disease or a manifestation of a disease in humans; and

(B) that exhibits spontaneous disintegration of unstable nuclei with the emission of nuclear particles or photons; or

(2) any nonradioactive reagent kit or nuclide generator that is intended to be used in the preparation of any such article.

SEC. 610. MODERNIZATION OF REGULATION OF BIOLOGICAL PRODUCTS.

(a) LICENSES.—

(1) IN GENERAL.—Section 351(a) of the Public Health Service (42 U.S.C. 262(a)) is amended to read as follows:

''(a)(1) Except as provided in paragraph (4), no person shall introduce or deliver for introduction into interstate commerce any biological product unless—

''(A) a biologics license is in effect for the biological product; and

''(B) each package of the biological product is plainly marked with—

''(i) the proper name of the biological product contained in the package;

''(ii) the name, address, and applicable license number of the manufacturer of the biological product; and

''(iii) the expiration date of the biological product.

''(2)(A) The Secretary shall establish, by regulation, requirements for the approval, suspension, and revocation of biologics licenses.

''(B) The Secretary shall approve a biologics license application on the basis of a demonstration that—

''(i) the biological product that is the subject of the application is safe, pure, and potent; and

''(ii) the facility in which the biological product is manufactured, processed, packed, or held meets standards designed to assure that the biological product continues to be safe, pure, and potent.

''(3) A biologics license application shall be approved only if the applicant (or other appropriate person) consents to the inspection of the facility that is the subject of the application, in accordance with subsection (c).

''(4) The Secretary shall prescribe requirements under which a biological product undergoing investigation shall be exempt from the requirements of paragraph (1).''.

(2) ELIMINATION OF EXISTING LICENSE REQUIREMENT.—Section 351(d) of the Public Health Service Act (42 U.S.C. 262(d)) is amended—

(A) by striking ''(d)(1)'' and all that follows through ''of this section.'';

(B) in paragraph (2)—

(i) by striking ''(2)(A) Upon'' and inserting ''(d)(1) Upon;'' and

(ii) by redesignating subparagraph (B) as paragraph (2); and

(C) in paragraph (2) (as so redesignated by subparagraph (B)(ii))—

(i) by striking ''subparagraph (A)'' and inserting ''paragraph (1)''; and

(ii) by striking ''this subparagraph'' each place it appears and inserting ''this paragraph''.

(b) LABELING.—Section 351(b) of the Public Health Service Act (42 U.S.C. 262(b)) is amended to read as follows:

''(b) No person shall falsely label or mark any package or container of any biological product or alter any label or mark on the package or container of the biological product so as to falsify the label or mark.''.

(c) INSPECTION.—Section 351(c) of the Public Health Service Act (42 U.S.C. 262(c)) is amended by striking ''virus, serum,'' and all that follows and inserting ''biological product.''.

(d) DEFINITION; APPLICATION.—Section 351 of the Public Health Service Act (42 U.S.C. 262) is amended by adding at the end the following:

''(i) In this section, the term 'biological product' means a virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, or analogous product, or arsphenamine or derivative of arsphenamine (or any other trivalent organic arsenic compound), applicable to the prevention, treatment, or cure of a disease or condition of human beings.''.

(e) CONFORMING AMENDMENT.—Section 503(g)(4) (21 U.S.C. 353(g)(4)) is amended—

(1) in subparagraph (A)—

(A) by striking ''section 351(a)'' and inserting ''section 351(i)''; and

(B) by striking ''262(a)'' and inserting ''262(i)''; and

(2) in subparagraph (B)(iii), by striking ''product or establishment license under subsection (a) or (d)'' and inserting ''biologics license application under subsection (a)''.

(f) SPECIAL RULE.—The Secretary of Health and Human Services shall take measures to minimize differences in the review and approval of products required to have approved biologics license applications under section 351 of the Public Health Service Act (42 U.S.C. 262) and products required to have approved full new drug applications under section 505(b)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)(1)).

SEC. 611. APPROVAL OF SUPPLEMENTAL APPLICATIONS FOR APPROVED PRODUCTS.

(a) PERFORMANCE STANDARDS.—Not later than 180 days after the date of enactment of this section, the Secretary of Health and Human Services shall publish in the Federal Register performance standards for the prompt review of supplemental applications submitted for approved articles under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.).

(b) GUIDANCE TO INDUSTRY.—Not later than 180 days after the date of enactment of this section, the Secretary of Health and Human Services shall issue final guidances to clarify the requirements for, and facilitate the submission of data to support, the approval of supplemental applications for the approved

articles described in subsection (a). The guidances shall—

(1) clarify circumstances in which published matter may be the basis for approval of a supplemental application;

(2) specify data requirements that will avoid duplication of previously submitted data by recognizing the availability of data previously submitted in support of an original application; and

(3) define supplemental applications that are eligible for priority review.

(c) RESPONSIBILITIES OF CENTERS.—The Secretary of Health and Human Services shall designate an individual in each center within the Food and Drug Administration (except the Center for Food Safety and Applied Nutrition) to be responsible for—

(1) encouraging the prompt review of supplemental applications for approved articles; and

(2) working with sponsors to facilitate the development and submission of data to support supplemental applications.

(d) COLLABORATION.—The Secretary of Health and Human Services shall implement programs and policies that will foster collaboration between the Food and Drug Administration, the National Institutes of Health, professional medical and scientific societies, and other persons, to identify published and unpublished studies that may support a supplemental application, and to encourage sponsors to make supplemental applications or conduct further research in support of a supplemental application based, in whole or in part, on such studies.

SEC. 612. HEALTH CARE ECONOMIC INFORMATION.

Section 502(a) (21 U.S.C. 352(a)) is amended by adding at the end the following: ''Health care economic information provided to a formulary committee, or other similar entity, in the course of the committee or the entity carrying out its responsibilities for the selection of drugs for managed care or other similar organizations, shall not be considered to be false or misleading if the health care economic information directly relates to an indication approved under section 505 or 507 or section 351(a) of the Public Health Service Act (42 U.S.C. 262(a)) for such drug and is based on competent and reliable scientific evidence. The requirements set forth in section 505(a), 507, or section 351(a) of the Public Health Service Act (42 U.S.C. 262(a)) shall not apply to health care economic information provided to such a committee or entity in accordance with this paragraph. Information that is relevant to the substantiation of the health care economic information presented pursuant to this paragraph shall be made available to the Secretary upon request. In this paragraph, the term 'health care economic information' means any analysis that identifies, measures, or compares the economic consequences, including the costs of the represented health outcomes, of the use of a drug to the use of another drug, to another health care intervention, or to no intervention.''.

SEC. 613. EXPEDITING STUDY AND APPROVAL OF FAST TRACK DRUGS.

(a) IN GENERAL.—Chapter V (21 U.S.C. 351 et seq.), as amended by section 102, is further amended by adding at the end the following:

''Subchapter E—Fast Track Drugs and Reports of Post-Market Approval Studies

''SEC. 561. FAST TRACK DRUGS.

''(a) DESIGNATION OF DRUG AS A FAST TRACK DRUG.—

''(1) IN GENERAL.—The Secretary shall facilitate development, and expedite review and approval of new drugs and biological products that are intended for the treatment of serious or life-threatening conditions and that demonstrate the potential to address unmet medical needs for such conditions. In this Act, such products shall be known as 'fast track drugs'.

''(2) REQUEST FOR DESIGNATION.—The sponsor of a drug (including a biological product) may request the Secretary to designate the drug as a fast track drug. A request for the designation may be made concurrently with, or at any time after, submission of an application for the investigation of the drug under section 505(i) or section 351(a)(4) of the Public Health Service Act.

''(3) DESIGNATION.—Within 30 calendar days after the receipt of a request under paragraph (2), the Secretary shall determine whether the drug that is the subject of the request meets the criteria described in paragraph (1). If the Secretary finds that the drug meets the criteria, the Secretary shall designate the drug as a fast track drug and shall take such actions as are appropriate to expedite the development and review of the drug.

''(b) APPROVAL OF APPLICATION FOR A FAST TRACK DRUG.—

''(1) IN GENERAL.—The Secretary may approve an application for approval of a fast track drug under section 505(b) or section 351 of the Public Health Service Act (21 U.S.C. 262) upon a determination that the drug has an effect on a surrogate endpoint that is reasonably likely to predict clinical benefit.

''(2) LIMITATION.—Approval of a fast track drug under this subsection may be subject to the requirements—

''(A) that the sponsor conduct appropriate post-approval studies to validate the surrogate endpoint or otherwise confirm the clinical benefit of the drug; and

''(B) that the sponsor submit copies of all promotional materials related to the fast track drug during the preapproval review period and following approval, at least 30 days prior to dissemination of the materials for such period of time as the Secretary deems appropriate.

''(3) EXPEDITED WITHDRAWAL OF APPROVAL.—The Secretary may withdraw approval of a fast track drug using expedited procedures (as prescribed by the Secretary in regulations) including a procedure that provides an opportunity for an informal hearing, if—

''(A) the sponsor fails to conduct any required post-approval study of the fast track drug with due diligence;

''(B) a post-approval study of the fast track drug fails to verify clinical benefit of the fast track drug;

''(C) other evidence demonstrates that the fast track drug is not safe or effective under conditions of use of the drug; or

''(D) the sponsor disseminates false or misleading promotional materials with respect to the fast track drug.

''(c) REVIEW OF INCOMPLETE APPLICATIONS FOR APPROVAL OF A FAST TRACK DRUG.—

''(1) IN GENERAL.—If preliminary evaluation by the Secretary of clinical efficacy data for a fast track drug under investigation shows evidence of effectiveness, the Secretary shall evaluate for filing, and may commence review of, portions of an application for the approval of the drug if the applicant provides a schedule for submission of information necessary to make the application complete and any fee that may be required under section 736.

''(2) EXCEPTION.—Any time period for review of human drug applications that has been agreed to by the Secretary and that has been set forth in goals identified in letters of the Secretary (relating to the use of fees collected under section 736 to expedite the drug development process and the review of human drug applications) shall not apply to an application submitted under paragraph (1) until the date on which the application is complete.

''(d) AWARENESS EFFORTS.—The Secretary shall—

''(1) develop and widely disseminate to physicians, patient organizations, pharmaceutical and biotechnology companies, and other appropriate persons a comprehensive description of the provisions applicable to fast track drugs established under this section; and

''(2) establish an ongoing program to encourage the development of surrogate endpoints that are reasonably likely to predict clinical benefit for serious or life-threatening conditions for which there exist significant unmet medical needs.''.

(b) GUIDANCE.—Within 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall issue guidance for fast track drugs that describes the policies and procedures that pertain to section 561 of the Federal Food, Drug, and Cosmetic Act.

SEC. 614. MANUFACTURING CHANGES FOR DRUGS AND BIOLOGICS.

(a) IN GENERAL.—Chapter VII (21 U.S.C. 371 et seq.), as amended by section 602, is further amended by adding at the end the following:

''Subchapter E—Manufacturing Changes

''SEC. 751. MANUFACTURING CHANGES.

''(a) IN GENERAL.—A change in the manufacture of a new drug, including a biological product, or a new animal drug may be made in accordance with this section.

''(b) CHANGES.—

''(1) VALIDATION.—Before distributing a drug made after a change in the manufacture of the drug from the manufacturing process established in the approved new drug application under section 505, the approved new animal drug application under section 512, or the license application under section 351 of the Public Health Service Act, the applicant shall validate the effect of the change on the identity, strength, quality, purity, and potency of the drug as the identity, strength, quality, purity, and potency may relate to the safety or effectiveness of the drug.

''(2) REPORTS.—The applicant shall report the change described in paragraph (1) to the Secretary and may distribute a drug made after the change as follows:

''(A) MAJOR MANUFACTURING CHANGES.—

''(i) IN GENERAL.—Major manufacturing changes, which are of a type determined by the Secretary to have substantial potential to adversely affect the identity, strength, quality, purity, or potency of the drug as the identity, strength, quality, purity, and potency may relate to the safety or effectiveness of a drug, shall be submitted to the Secretary in a supplemental application and drugs made after such changes may not be distributed until the Secretary approves the supplemental application.

''(ii) DEFINITION.—In this subparagraph, the term 'major manufacturing changes' means—

''(I) changes in the qualitative or quantitative formulation of a drug or the specifications in the approved marketing application for the drug (unless exempted by the Secretary from the requirements of this subparagraph);

''(II) changes that the Secretary determines by regulation or issuance of guidance require completion of an appropriate human study demonstrating equivalence of the drug to the drug manufactured before such changes; and

''(III) other changes that the Secretary determines by regulation or issuance of guidance have a substantial potential to adversely affect the safety or effectiveness of the drug.

''(B) OTHER MANUFACTURING CHANGES.—

''(i) IN GENERAL.—As determined by the Secretary, manufacturing changes other than major manufacturing changes shall—

''(I) be made at any time and reported annually to the Secretary, with supporting data; or

''(II) be reported to the Secretary in a supplemental application.

''(ii) DISTRIBUTION OF THE DRUG.—In the case of changes reported in accordance with clause (i)(II)—

''(I) the applicant may distribute the drug 30 days after the Secretary receives the supplemental application unless the Secretary notifies the applicant within such 30-day period that prior approval of such supplemental application is required;

''(II) the Secretary shall approve or disapprove each such supplemental application; and

''(III) the Secretary may determine types of manufacturing changes after which distribution of a drug may commence at the time of submission of such supplemental application.''.

(b) EXISTING LAW.—The requirements of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.) and the Public Health Service Act (42 U.S.C. 201 et seq.) that are in effect on the date of enactment of this Act with respect to manufacturing changes shall remain in effect—

(1) for a period of 24 months after the date of enactment of this Act; or

(2) until the effective date of regulations promulgated by the Secretary of Health and Human Services implementing section 751 of the Federal Food, Drug, and Cosmetic Act, whichever is sooner.

SEC. 615. DATA REQUIREMENTS FOR DRUGS AND BIOLOGICS.

Within 12 months after the date of enactment of this Act, the Secretary of the Health and Human Services, acting through the Commissioner of Food and Drugs, shall issue guidance that describes when abbreviated study reports may be submitted, in lieu of full reports, with a new drug application under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and with a biologics license application under section 351 of the Public Health Service Act (42 U.S.C. 262) for certain types of studies. Such guidance shall describe the kinds of studies for which abbreviated reports are appropriate and the appropriate abbreviated report formats.

SEC. 616. FOOD CONTACT SUBSTANCES.

(a) FOOD CONTACT SUBSTANCES.—Section 409(a) (21 U.S.C. 348(a)) is amended—

(1) in paragraph (1)—

(A) by striking ''subsection (i)'' and inserting ''subsection (j)''; and

(B) by striking at the end ''or'';

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

(3) by inserting after paragraph (2) the following:

''(3) in the case of a food additive as defined in this Act that is a food contact substance, there is—

''(A) in effect, and such substance and the use of such substance are in conformity with, a regulation issued under this section prescribing the conditions under which such additive may be safely used; or

''(B) a notification submitted under subsection (h) that is effective.''; and

(4) by striking the matter following paragraph (3) (as added by paragraph (2)) and inserting the following flush sentence:

''While such a regulation relating to a food additive, or such a notification under subsection (h) relating to a food additive that is a food contact substance, is in effect, and has not been revoked pursuant to subsection (i), a food shall not, by reason of bearing or containing such a food additive in accordance with the regulation or notification, be considered adulterated under section 402(a)(1).''.

(b) NOTIFICATION FOR FOOD CONTACT SUBSTANCES.—Section 409 (21 U.S.C. 348), as amended by subsection (a), is further amended—

(1) by redesignating subsections (h) and (i), as subsections (i) and (j), respectively;

(2) by inserting after subsection (g) the following:

''Notification Relating to a Food Contact Substance

''(h)(1) Subject to such regulations as may be promulgated under paragraph (3), a manufacturer or supplier of a food contact substance may, at least 120 days prior to the introduction or delivery for introduction into interstate commerce of the food contact substance, notify the Secretary of the identity and intended use of the food contact substance, and of the determination of the manufacturer or supplier that the intended use of such food contact substance is safe under the standard described in subsection (c)(3)(A). The notification shall contain the information that forms the basis of the determination, the fee required under paragraph (5), and all information required to be submitted by regulations promulgated by the Secretary.

''(2)(A) A notification submitted under paragraph (1) shall become effective 120 days after the date of receipt by the Secretary and the food contact substance may be introduced or delivered for introduction into interstate commerce, unless the Secretary makes a determination within the 120-day period that, based on the data and information before the Secretary, such use of the food contact substance has not been shown to be safe under the standard described in subsection (c)(3)(A), and informs the manufacturer or supplier of such determination.

''(B) A decision by the Secretary to object to a notification shall constitute final agency action subject to judicial review.

''(C) In this paragraph, the term 'food contact substance' means the substance that is the subject of a notification submitted under paragraph (1), and does not include a similar or identical substance manufactured or prepared by a person other than the manufacturer identified in the notification.

''(3)(A) The process in this subsection shall be utilized for authorizing the marketing of a food contact substance except where the Secretary determines that submission and review of a petition under subsection (b) is necessary to provide adequate assurance of safety, or where the Secretary and any manufacturer or supplier agree that such manufacturer or supplier may submit a petition under subsection (b).

''(B) The Secretary is authorized to promulgate regulations to identify the circumstances in which a petition shall be filed under subsection (b), and shall consider criteria such as the probable consumption of such food contact substance and potential toxicity of the food contact substance in determining the circumstances in which a petition shall be filed under subsection (b).

''(4) The Secretary shall keep confidential any information provided in a notification under paragraph (1) for 120 days after receipt by the Secretary of the notification. After the expiration of such 120 days, the information shall be available to any interested party except for any matter in the notification that is a trade secret or confidential commercial information.

''(5)(A) Each person that submits a notification regarding a food contact substance under this section shall be subject to the payment of a reasonable fee. The fee shall be based on the resources required to process the notification including reasonable administrative costs for such processing.

''(B) The Secretary shall conduct a study of the costs of administering the notification program established under this section and, on the basis of the results of such study, shall, within 18 months after the date of enactment of the Food and Drug Administration Modernization and Accountability Act of 1997, promulgate regulations establishing the fee required by subparagraph (A).

''(C) A notification submitted without the appropriate fee is not complete and shall not become effective for the purposes of subsection (a)(3) until the appropriate fee is paid.

''(D) Fees collected pursuant to this subsection—

''(i) shall not be deposited as an offsetting collection to the appropriations for the Department of Health and Human Services;

''(ii) shall be credited to the appropriate account of the Food and Drug Administration; and

''(iii) shall be available in accordance with appropriation Acts until expended, without fiscal year limitation.

''(6) In this section, the term 'food contact substance' means any substance intended for use as a component of materials used in manufacturing, packing, packaging, transporting, or holding food if such use is not intended to have any technical effect in such food.'';

(3) in subsection (i), as so redesignated by paragraph (1), by adding at the end the following: ''The Secretary shall by regulation prescribe the procedure by which the Secretary may deem a notification under subsection (h) to no longer be effective.''; and

(4) in subsection (j), as so redesignated by paragraph (1), by striking ''subsections (b) to (h)'' and inserting ''subsections (b) to (i)''.

(c) EFFECTIVE DATE.—Notifications under section 409(h) of the Federal Food, Drug, and Cosmetic Act, as added by subsection (b), may be submitted beginning 18 months after the date of enactment of this Act.

SEC. 617. HEALTH CLAIMS FOR FOOD PRODUCTS.

Section 403(r)(3) (21 U.S.C. 343(r)(3)) is amended by adding at the end the following:

''(C) Notwithstanding the provisions of clauses (A)(i) and (B), a claim of the type described in subparagraph (1)(B) that is not authorized by the Secretary in a regulation promulgated in accordance with clause (B) shall be authorized and may be made if—

''(i) an authoritative scientific body of the Federal Government with official responsibility for public health protection or research directly relating to human nutrition (such as the National Institutes of Health or the Centers for Disease Control and Prevention), the National Academy of Sciences, or a subdivision of the scientific body or the National Academy of Sciences, has published an authoritative statement, which is currently in effect, about the relationship between a nutrient and a disease or health-related condition to which the claim refers;

''(ii) a person has submitted to the Secretary at least 120 days before the first introduction of a food into interstate commerce a notice of the claim, including a concise description of the basis upon which such person relied for determining that the requirements of subclause (i) have been satisfied;

''(iii) the claim and the food for which the claim is made are in compliance with clause (A)(ii), and are otherwise in compliance with paragraph (a) and section 201(n); and

''(iv) the claim is stated in a manner so that the claim is an accurate representation of the authoritative statement referred to in subclause (i) and so that the claim enables the public to comprehend the information provided in the claim and to understand the

relative significance of such information in the context of a total daily diet.

For purposes of this paragraph, a statement shall be regarded as an authoritative statement of such a scientific body described in subclause (i) only if the statement is published by the scientific body and shall not include a statement of an employee of the scientific body made in the individual capacity of the employee.

''(D) A claim submitted under the requirements of clause (C), may be made until—

''(i) such time as the Secretary issues an interim final regulation—

''(I) under the standard in clause (B)(i), prohibiting or modifying the claim; or

''(II) finding that the requirements of clause (C) have not been met; or

''(ii) a district court of the United States in an enforcement proceeding under chapter III has determined that the requirements of clause (C) have not been met.

Where the Secretary issues a regulation under subclause (i), good cause shall be deemed to exist for the purposes of subsections (b)(B) and (d)(3) of section 553 of title 5, United States Code. The Secretary shall solicit comments in response to a regulation promulgated under subclause (i) and shall publish a response to such comments.''.

SEC. 618. PEDIATRIC STUDIES MARKETING EXCLUSIVITY.

Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by inserting after section 505 the following:

''SEC. 505A. PEDIATRIC STUDIES OF DRUGS.

''(a) MARKET EXCLUSIVITY FOR NEW DRUGS.—If, prior to approval of an application that is submitted under section 505(b)(1) the Secretary determines that information relating to the use of a drug in the pediatric population may produce health benefits in that population, the Secretary makes a written request for pediatric studies (which may include a timeframe for completing such studies), and such studies are completed within any such timeframe and the reports thereof submitted in accordance with subsection (d)(2) or completed within any such timeframe and the reports thereof are accepted in accordance with subsection (d)(3)—

''(1)(A) the period during which an application may not be submitted under subsections (c)(3)(D)(ii) and (j)(4)(D)(ii) of section 505 shall be five years and six months rather than five years, and the references in subsections (c)(3)(D)(ii) and (j)(4)(D)(ii) of section 505 to four years, to forty-eight months, and to seven and one-half years shall be deemed to be four and one-half years, fifty-four months, and eight years, respectively; or

''(B) the period of market exclusivity under subsections (c)(3)(D) (iii) and (iv) and (j)(4)(D) (iii) and (iv) of section 505 shall be three years and six months rather than three years; and

''(2)(A) if the drug is the subject of—

''(i) a listed patent for which a certification has been submitted under subsection (b)(2)(A)(ii) or (j)(2)(A)(vii)(II) of section 505 and for which pediatric studies were submitted prior to the expiration of the patent (including any patent extensions); or

''(ii) a listed patent for which a certification has been submitted under subsection (b)(2)(A)(iii) or (j)(2)(A)(vii)(III) of section 505,

the period during which an application may not be approved under subsection (c)(3) or (j)(4)(B) of section 505 shall be extended by a period of six months after the date the patent expires (including any patent extensions); or

''(B) if the drug is the subject of a listed patent for which a certification has been submitted under subsection (b)(2)(A)(iv) or (j)(2)(A)(vii)(IV) of section 505, and in the patent infringement litigation resulting from the certification the court determines that the patent is valid and would be infringed, the period during which an application may not be approved under subsection (c)(3) or (j)(4)(B) of section 505 shall be extended by a period of six months after the date the patent expires (including any patent extensions).

''(b) SECRETARY TO DEVELOP LIST OF DRUGS FOR WHICH ADDITIONAL PEDIATRIC INFORMATION MAY BE BENEFICIAL.—Not later than 180 days after the date of enactment of this section, the Secretary, after consultation with experts in pediatric research (such as the American Academy of Pediatrics, the Pediatric Pharmacology Research Unit Network, and the United States Pharmacopoeia) shall develop, prioritize, and publish an initial list of approved drugs for which additional pediatric information may produce health benefits in the pediatric population. The Secretary shall annually update the list.

''(c) MARKET EXCLUSIVITY FOR ALREADY-MARKETED DRUGS.—If the Secretary makes a written request for pediatric studies (which may include a timeframe for completing such studies) concerning a drug identified in the list described in subsection (b) to the holder of an approved application under section 505(b)(1) for the drug, the holder agrees to the request, and the studies are completed within any such timeframe and the reports thereof submitted in accordance with subsection (d)(2) or completed within any such timeframe and the reports thereof accepted in accordance with subsection (d)(3)—

''(1)(A) the period during which an application may not be submitted under subsections (c)(3)(D)(ii) and (j)(4)(D)(ii) of section 505 shall be five years and six months rather than five years, and the references in subsections (c)(3)(D)(ii) and (j)(4)(D)(ii) of section 505 to four years, to forty-eight months, and to seven and one-half years shall be deemed to be four and one-half years, fifty-four months, and eight years, respectively; or

''(B) the period of market exclusivity under subsections (c)(3)(D) (iii) and (iv) and (j)(4)(D) (iii) and (iv) of section 505 shall be three years and six months rather than three years; and

''(2)(A) if the drug is the subject of—

''(i) a listed patent for which a certification has been submitted under subsection (b)(2)(A)(ii) or (j)(2)(A)(vii)(II) of section 505 and for which pediatric studies were submitted prior to the expiration of the patent (including any patent extensions); or

''(ii) a listed patent for which a certification has been submitted under subsection (b)(2)(A)(iii) or (j)(2)(A)(vii)(III) of section 505,

the period during which an application may not be approved under subsection (c)(3) or (j)(4)(B) of section 505 shall be extended by a period of six months after the date the patent expires (including any patent extensions); or

''(B) if the drug is the subject of a listed patent for which a certification has been submitted under subsection (b)(2)(A)(iv) or (j)(2)(A)(vii)(IV) of section 505, and in the patent infringement litigation resulting from the certification the court determines that the patent is valid and would be infringed, the period during which an application may not be approved under subsection (c)(3) or (j)(4)(B) of section 505 shall be extended by a period of six months after the date the patent expires (including any patent extensions).

''(d) CONDUCT OF PEDIATRIC STUDIES.—

''(1) AGREEMENT FOR STUDIES.—The Secretary may, pursuant to a written request for studies, after consultation with—

''(A) the sponsor of an application for an investigational new drug under section 505(i);

''(B) the sponsor of an application for a drug under section 505(b)(1); or

''(C) the holder of an approved application for a drug under section 505(b)(1),

agree with the sponsor or holder for the conduct of pediatric studies for such drug.

''(2) WRITTEN PROTOCOLS TO MEET THE STUDIES REQUIREMENT.—If the sponsor or holder and the Secretary agree upon written protocols for the studies, the studies requirement of subsection (a) or (c) is satisfied upon the completion of the studies and submission of the reports thereof in accordance with the original written request and the written agreement referred to in paragraph (1). Not later than 60 days after the submission of the report of the studies, the Secretary shall determine if such studies were or were not conducted in accordance with the original written request and the written agreement and reported in accordance with the requirements of the Secretary for filing and so notify the sponsor or holder.

''(3) OTHER METHODS TO MEET THE STUDIES REQUIREMENT.—If the sponsor or holder and the Secretary have not agreed in writing on the protocols for the studies, the studies requirement of subsection (a) or (c) is satisfied when such studies have been completed and the reports accepted by the Secretary. Not later than 90 days after the submission of the reports of the studies, the Secretary shall accept or reject such reports and so notify the sponsor or holder. The Secretary's only responsibility in accepting or rejecting the reports shall be to determine, within the 90 days, whether the studies fairly respond to the written request, whether such studies have been conducted in accordance with commonly accepted scientific principles and protocols, and whether such studies have been reported in accordance with the requirements of the Secretary for filing.

''(e) DELAY OF EFFECTIVE DATE FOR CERTAIN APPLICATIONS; PERIOD OF MARKET EXCLUSIVITY.—If the Secretary determines that the acceptance or approval of an application under subsection (b)(2) or (j) of section 505 for a drug may occur after submission of reports of pediatric studies under this section, which were submitted prior to the expiration of the patent (including any patent extension) or market exclusivity protection, but before the Secretary has determined whether the requirements of subsection (d) have been satisfied, the Secretary shall delay the acceptance or approval under subsection (b)(2) or (j), respectively, of section 505 until the determination under subsection (d) is made, but such delay shall not exceed 90 days. In the event that requirements of this section are satisfied, the applicable period of market exclusivity referred to in subsection (a) or (c) shall be deemed to have been running during the period of delay.

''(f) NOTICE OF DETERMINATIONS ON STUDIES REQUIREMENT.—The Secretary shall publish a notice of any determination that the requirements of subsection (d) have been met and that submissions and approvals under subsection (b)(2) or (j) of section 505 for a drug will be subject to the provisions of this section.

''(g) DEFINITIONS.—As used in this section, the term 'pediatric studies' or 'studies' means at least 1 clinical investigation (that, at the Secretary's discretion, may include pharmacokinetic studies) in pediatric age-groups in which a drug is anticipated to be used.

''(h) LIMITATION.—The holder of an approved application for a new drug that has

already received six months of market exclusivity under subsection (a) or (c) may, if otherwise eligible, obtain six months of market exclusivity under subsection (c)(1)(B) for a supplemental application, except that the holder is not eligible for exclusivity under subsection (c)(2).

''(i) SUNSET.—No period of market exclusivity shall be granted under this section based on studies commenced after January 1, 2004. The Secretary shall conduct a study and report to Congress not later than January 1, 2003 based on the experience under the program. The study and report shall examine all relevant issues, including—

''(1) the effectiveness of the program in improving information about important pediatric uses for approved drugs;

''(2) the adequacy of the incentive provided under this section;

''(3) the economic impact of the program; and

''(4) any suggestions for modification that the Secretary deems appropriate.''.

SEC. 619. POSITRON EMISSION TOMOGRAPHY.

(a) REGULATION OF COMPOUNDED POSITRON EMISSION TOMOGRAPHY DRUGS UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.—

(1) DEFINITION.—Section 201 (21 U.S.C. 321) is amended by adding at the end the following:

''(ii) The term 'compounded positron emission tomography drug'—

''(1) means a drug that—

''(A) exhibits spontaneous disintegration of unstable nuclei by the emission of positrons and is used for the purpose of providing dual photon positron emission tomographic diagnostic images; and

''(B) has been compounded by or on the order of a practitioner who is licensed by a State to compound or order compounding for a drug described in subparagraph (A), and is compounded in accordance with that State's law, for a patient or for research, teaching, or quality control; and

''(2) includes any nonradioactive reagent, reagent kit, ingredient, nuclide generator, accelerator, target material, electronic synthesizer, or other apparatus or computer program to be used in the preparation of such a drug.''.

(b) ADULTERATION.—

(1) IN GENERAL.—Section 501(a)(2) (21 U.S.C. 351(a)(2)) is amended by striking ''; or (3)'' and inserting the following: ''; or (C) if it is a compounded positron emission tomography drug and the methods used in, or the facilities and controls used for, its compounding, processing, packing, or holding do not conform to or are not operated or administered in conformity with the positron emission tomography compounding standards and the official monographs of the United States Pharmacopeia to assure that such drug meets the requirements of this Act as to safety and has the identity and strength, and meets the quality and purity characteristics, that it purports or is represented to possess; or (3)''.

(2) SUNSET.—Section 501(a)(2)(C) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351(a)(2)(C)) shall not apply 4 years after the date of enactment of this Act or 2 years after the date or which the Secretary of Health and Human Services establishes the requirements described in subsection (c)(1)(B), whichever is later.

(c) REQUIREMENTS FOR REVIEW OF APPROVAL PROCEDURES AND CURRENT GOOD MANUFACTURING PRACTICES FOR POSITRON EMISSION TOMOGRAPHY.—

(1) PROCEDURES AND REQUIREMENTS.—

(A) IN GENERAL.—In order to take account of the special characteristics of compounded positron emission tomography drugs and the special techniques and processes required to produce these drugs, not later than 2 years after the date of enactment of this Act, the Secretary of Health and Human Services shall establish—

(i) appropriate procedures for the approval of compounded positron emission tomography drugs pursuant to section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355); and

(ii) appropriate current good manufacturing practice requirements for such drugs.

(B) CONSIDERATIONS AND CONSULTATION.—In establishing the procedures and requirements required by subparagraph (A), the Secretary of Health and Human Services shall take due account of any relevant differences between not-for-profit institutions that compound the drugs for their patients and commercial manufacturers of the drugs. Prior to establishing the procedures and requirements, the Secretary of Health and Human Services shall consult with patient advocacy groups, professional associations, manufacturers, and physicians and scientists licensed to make or use compounded positron emission tomography drugs.

(2) SUBMISSION OF NEW DRUG APPLICATIONS AND ABBREVIATED NEW DRUG APPLICATIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary of Health and Human Services shall not require the submission of new drug applications or abbreviated new drug applications under subsection (b) or (j) of section 505 (21 U.S.C. 355), for compounded positron emission tomography drugs that are not adulterated drugs described in section 501(a)(2)(C) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351(a)(2)(C)) (as amended by subsection (b)), for a period of 4 years after the date of enactment of this Act, or for 2 years after the date or which the Secretary establishes procedures and requirements under paragraph (1), whichever is later.

(B) EXCEPTION.—Nothing in this Act shall prohibit the voluntary submission of such applications or the review of such applications by the Secretary of Health and Human Services. Nothing in this Act shall constitute an exemption for a compounded positron emission tomography drug from the requirements of regulations issued under section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)) for such drugs.

(d) REVOCATION OF CERTAIN INCONSISTENT DOCUMENTS.—Within 30 days after the date of enactment of this Act, the Secretary of Health and Human Services shall publish in the Federal Register a notice terminating the application of the following notices and rule, to the extent the notices and rule relate to compounded positron emission tomography drugs:

(1) A notice entitled ''Regulation of Positron Emission Tomographic Drug Products: Guidance; Public Workshop'', published in the Federal Register on February 27, 1995.

(2) A notice entitled ''Guidance for Industry: Current Good Manufacturing Practices for Positron Emission Tomographic (PET) Drug Products; Availability'', published in the Federal Register on April 22, 1997.

(3) A final rule entitled ''Current Good Manufacturing Practice for Finished Pharmaceuticals; Positron Emission Tomography'', published in the Federal Register on April 22, 1997.

(e) DEFINITION.—As used in this section, the term ''compounded positron emission tomography drug'' has the meaning given the term in section 201 of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 321).

SEC. 620. DISCLOSURE.

Chapter IV (21 U.S.C. 341 et seq.) is amended by adding after section 403B the following:

''DISCLOSURE

''SEC. 403C. (a) No provision of section 403(a), 201(n), or 409 shall be construed to require on the label or labeling of a food a separate radiation disclosure statement that is more prominent than the declaration of ingredients required by section 403(i)(2).

''(b) In this section, the term 'radiation disclosure statement' means a written statement that discloses that a food or a component of the food has been intentionally subject to radiation.''.

SEC. 621. REFERRAL STATEMENTS RELATING TO FOOD NUTRIENTS.

Section 403(r)(2)(B) (21 U.S.C. 343(r)(2)(B)) is amended to read as follows:

''(B) If a claim described in subparagraph (1)(A) is made with respect to a nutrient in a food, and the Secretary makes a determination that the food contains a nutrient at a level that increases to persons in the general population the risk of a disease or health-related condition that is diet related, then the label or labeling of such food shall contain, prominently and in immediate proximity to such claim, the following statement: 'See nutrition information panel for ___ content.' The blank shall identify the nutrient associated with the increased disease or health-related condition risk. In making the determination described in this clause, the Secretary shall take into account the significance of the food in the total daily diet.''.

TITLE VII—FEES RELATING TO DRUGS

SEC. 701. SHORT TITLE.

This title may be cited as the ''Prescription Drug User Fee Reauthorization Act of 1997''.

SEC. 702. FINDINGS.

Congress finds that—

(1) prompt approval of safe and effective new drugs and other therapies is critical to the improvement of the public health so that patients may enjoy the benefits provided by these therapies to treat and prevent illness and disease;

(2) the public health will be served by making additional funds available for the purpose of augmenting the resources of the Food and Drug Administration that are devoted to the process for review of human drug applications;

(3) the provisions added by the Prescription Drug User Fee Act of 1992 have been successful in substantially reducing review times for human drug applications and should be—

(A) reauthorized for an additional 5 years, with certain technical improvements; and

(B) carried out by the Food and Drug Administration with new commitments to implement more ambitious and comprehensive improvements in regulatory processes of the Food and Drug Administration; and

(4) the fees authorized by amendments made in this title will be dedicated toward expediting the drug development process and the review of human drug applications as set forth in the goals identified in appropriate letters from the Secretary of Health and Human Services to the chairman of the Committee on Commerce of the House of Representatives and the chairman of the Committee on Labor and Human Resources of the Senate.

SEC. 703. DEFINITIONS.

Section 735 (21 U.S.C. 379g) is amended—

(1) in the second sentence of paragraph (1)—

(A) by striking ''Service Act, and'' and inserting ''Service Act,''; and

(B) by striking ''September 1, 1992.'' and inserting the following: ''September 1, 1992, does not include an application for a licensure of a biological product for further manufacturing use only, and does not include an application or supplement submitted by a State or Federal Government entity for a

drug or biological product that is not distributed commercially. Such term does include an application for licensure, as described in subparagraph (D), of a large volume biological product intended for single dose injection for intravenous use or infusion.'';

(2) in the second sentence of paragraph (3)—

(A) by striking ''Service Act, and'' and inserting ''Service Act,''; and

(B) by striking ''September 1, 1992.'' and inserting the following: ''September 1, 1992, does not include a biological product that is licensed for further manufacturing use only, and does not include a drug or biological product that is not distributed commercially and is the subject of an application or supplement submitted by a State or Federal Government entity. Such term does include a large volume biological product intended for single dose injection for intravenous use or infusion.'';

(3) in paragraph (4), by striking ''without'' and inserting ''without substantial'';

(4) by striking paragraph (5) and inserting the following:

''(5) The term 'prescription drug establishment' means a foreign or domestic place of business which is at 1 general physical location consisting of 1 or more buildings all of which are within 5 miles of each other, at which 1 or more prescription drug products are manufactured in final dosage forms.'';

(5) in paragraph (7)(A)—

(A) by striking ''employees under contract'' and all that follows through ''Administration,'' and inserting ''contractors of the Food and Drug Administration,''; and

(B) by striking ''and committees,'' and inserting ''and committees and to contracts with such contractors,'';

(6) in paragraph (8)—

(A) in subparagraph (A)—

(i) by striking ''August of'' and inserting ''April of''; and

(ii) by striking ''August 1992'' and inserting ''April 1997'';

(B) by striking subparagraph (B) and inserting the following:

''(B) 1 plus the decimal expression of the total percentage increase for such fiscal year since fiscal year 1997 in basic pay under the General Schedule in accordance with section 5332 of title 5, United States Code, as adjusted by any locality-based comparability payment pursuant to section 5304 of such title for Federal employees stationed in the District of Columbia.''; and

(C) by striking the second sentence; and

(7) by adding at the end the following:

''(9) The term 'affiliate' means a business entity that has a relationship with a second business entity if, directly or indirectly—

''(A) 1 business entity controls, or has the power to control, the other business entity; or

''(B) a third party controls, or has power to control both of the business entities.''.

SEC. 704. AUTHORITY TO ASSESS AND USE DRUG FEES.

(a) TYPES OF FEES.—Section 736(a) (21 U.S.C. 379h(a)) is amended—

(1) by striking ''Beginning in fiscal year 1993'' and inserting ''Beginning in fiscal year 1998'';

(2) in paragraph (1)—

(A) by striking subparagraph (B) and inserting the following:

''(B) PAYMENT.—The fee required by subparagraph (A) shall be due upon submission of the application or supplement.'';

(B) in subparagraph (D)—

(i) in the subparagraph heading, by striking ''NOT ACCEPTED'' and inserting ''REFUSED'';

(ii) by striking ''50 percent'' and inserting ''75 percent'';

(iii) by striking ''subparagraph (B)(i)'' and inserting ''subparagraph (B)''; and

(iv) by striking ''not accepted'' and inserting ''refused''; and

(C) by adding at the end the following:

''(E) EXCEPTION FOR DESIGNATED ORPHAN DRUG OR INDICATION.—A human drug application for a prescription drug product that has been designated as a drug for a rare disease or condition pursuant to section 526 shall not be subject to a fee under subparagraph (A), unless the human drug application includes indications for other than rare diseases or conditions. A supplement proposing to include a new indication for a rare disease or condition in a human drug application shall not be subject to a fee under subparagraph (A), provided that the drug has been designated pursuant to section 526 as a drug for a rare disease or condition with regard to the indication proposed in such supplement.

''(F) EXCEPTION FOR SUPPLEMENTS FOR PEDIATRIC INDICATIONS.—A supplement to a human drug application for an indication for use in pediatric populations shall not be assessed a fee under subparagraph (A).

''(G) REFUND OF FEE IF APPLICATION WITHDRAWN.—If an application or supplement is withdrawn after the application or supplement is filed, the Secretary may waive and refund the fee or a portion of the fee if no substantial work was performed on the application or supplement after the application or supplement was filed. The Secretary shall have the sole discretion to waive and refund a fee or a portion of the fee under this subparagraph. A determination by the Secretary concerning a waiver or refund under this paragraph shall not be reviewable.'';

(3) by striking paragraph (2) and inserting the following:

''(2) PRESCRIPTION DRUG ESTABLISHMENT FEE.—

''(A) IN GENERAL.—Each person that—

''(i) is named as the applicant in a human drug application; and

''(ii) after September 1, 1992, had pending before the Secretary a human drug application or supplement;

shall be assessed an annual fee established in subsection (b) for each prescription drug establishment listed in its approved human drug application as an establishment that manufactures the prescription drug product named in the application. The annual establishment fee shall be assessed in each fiscal year in which the prescription drug product named in the application is assessed a fee under paragraph (3) unless the prescription drug establishment listed in the application does not engage in the manufacture of the prescription drug product during the fiscal year. The establishment fee shall be payable on or before January 31 of each year. Each such establishment shall be assessed only 1 fee per establishment, notwithstanding the number of prescription drug products manufactured at the establishment. In the event an establishment is listed in a human drug application by more than 1 applicant, the establishment fee for the fiscal year shall be divided equally and assessed among the applicants whose prescription drug products are manufactured by the establishment during the fiscal year and assessed product fees under paragraph (3).

''(B) EXCEPTION.—If, during the fiscal year, an applicant initiates or causes to be initiated the manufacture of a prescription drug product at an establishment listed in its human drug application—

''(i) that did not manufacture the product in the previous fiscal year; and

''(ii) for which the full establishment fee has been assessed in the fiscal year at a time before manufacture of the prescription drug product was begun;

the applicant will not be assessed a share of the establishment fee for the fiscal year in which manufacture of the product began.''; and

(4) in paragraph (3)—

(A) in subparagraph (A)—

(i) in clause (i), by striking ''is listed'' and inserting ''has been submitted for listing''; and

(ii) by striking ''Such fee shall be payable'' and all that follows through ''section 510.'' and inserting the following: ''Such fee shall be payable for the fiscal year in which the product is first submitted for listing under section 510, or for relisting under section 510 if the product has been withdrawn from listing and relisted. After such fee is paid for that fiscal year, such fee shall be payable on or before January 31 of each year. Such fee shall be paid only once for each product for a fiscal year in which the fee is payable.''; and

(B) in subparagraph (B), by striking ''505(j).'' and inserting the following: ''505(j), or under an abbreviated new drug application pursuant to regulations in effect prior to the implementation of the Drug Price Competition and Patent Term Restoration Act of 1984, or is a product approved under an application filed under section 507 that is abbreviated.''.

(b) FEE AMOUNTS.—Section 736(b) (21 U.S.C. 379h(b)) is amended to read as follows:

''(b) FEE AMOUNTS.—Except as provided in subsections (c), (d), (f), and (g), the fees required under subsection (a) shall be determined and assessed as follows:

''(1) APPLICATION AND SUPPLEMENT FEES.—

''(A) FULL FEES.—The application fee under subsection (a)(1)(A)(i) shall be $250,704 in fiscal year 1998, $256,338 in each of fiscal years 1999 and 2000, $267,606 in fiscal year 2001, and $258,451 in fiscal year 2002.

''(B) OTHER FEES.—The fee under subsection (a)(1)(A)(ii) shall be $125,352 in fiscal year 1998, $128,169 in each of fiscal years 1999 and 2000, $133,803 in fiscal year 2001, and $129,226 in fiscal year 2002.

''(2) FEE REVENUES FOR ESTABLISHMENT FEES.—The total fee revenues to be collected in establishment fees under subsection (a)(2) shall be $35,600,000 in fiscal year 1998, $36,400,000 in each of fiscal years 1999 and 2000, $38,000,000 in fiscal year 2001, and $36,700,000 in fiscal year 2002.

''(3) TOTAL FEE REVENUES FOR PRODUCT FEES.—The total fee revenues to be collected in product fees under subsection (a)(3) in a fiscal year shall be equal to the total fee revenues collected in establishment fees under subsection (a)(2) in that fiscal year.''.

(c) INCREASES AND ADJUSTMENTS.—Section 736(c) (21 U.S.C. 379h(c)) is amended—

(1) in the subsection heading, by striking ''INCREASES AND'';

(2) in paragraph (1)—

(A) by striking ''(1) REVENUE'' and all that follows through ''increased by the Secretary'' and inserting the following: ''(1) INFLATION ADJUSTMENT.—The fees and total fee revenues established in subsection (b) shall be adjusted by the Secretary'';

(B) in subparagraph (A), by striking ''increase'' and inserting ''change'';

(C) in subparagraph (B), by striking ''increase'' and inserting ''change''; and

(D) by adding at the end the following flush sentence:

''The adjustment made each fiscal year by this subsection will be added on a compounded basis to the sum of all adjustments made each fiscal year after fiscal year 1997 under this subsection.'';

(3) in paragraph (2), by striking ''October 1, 1992,'' and all that follows through ''such schedule.'' and inserting the following: ''September 30, 1997, adjust the establishment and product fees described in subsection (b) for

the fiscal year in which the adjustment occurs so that the revenues collected from each of the categories of fees described in paragraphs (2) and (3) of subsection (b) shall be set to be equal to the revenues collected from the category of application and supplement fees described in paragraph (1) of subsection (b).''; and

(4) in paragraph (3), by striking ''paragraph (2)'' and inserting ''this subsection''.

(d) FEE WAIVER OR REDUCTION.—Section 736(d) (21 U.S.C. 379h(d)) is amended—

(1) by redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively, and indenting appropriately;

(2) by striking ''The Secretary shall grant a'' and all that follows through ''finds that—'' and inserting the following:

''(1) IN GENERAL.—The Secretary shall grant a waiver from or a reduction of 1 or more fees assessed under subsection (a) where the Secretary finds that—'';

(3) in subparagraph (C) (as so redesignated by paragraph (1)), by striking '', or'' and inserting a comma;

(4) in subparagraph (D) (as so redesignated by paragraph (1)), by striking the period and inserting '', or'';

(5) by inserting after subparagraph (D) (as so redesignated by paragraph (1)) the following:

''(E) the applicant is a small business submitting its first human drug application to the Secretary for review.''; and

(6) by striking ''In making the finding in paragraph (3),'' and all that follows through ''standard costs.'' and inserting the following:

''(2) USE OF STANDARD COSTS.—In making the finding in paragraph (1)(C), the Secretary may use standard costs.

''(3) RULES RELATING TO SMALL BUSINESSES.—

''(A) DEFINITION.—In paragraph (1)(E), the term 'small business' means an entity that has fewer than 500 employees, including employees of affiliates.

''(B) WAIVER OF APPLICATION FEE.—The Secretary shall waive under paragraph (1)(E) the application fee for the first human drug application that a small business or its affiliate submits to the Secretary for review. After a small business or its affiliate is granted such a waiver, the small business or its affiliate shall pay—

''(i) application fees for all subsequent human drug applications submitted to the Secretary for review in the same manner as an entity that does not qualify as a small business; and

''(ii) all supplement fees for all supplements to human drug applications submitted to the Secretary for review in the same manner as an entity that does not qualify as a small business.''.

(e) ASSESSMENT OF FEES.—Section 736(f)(1) (21 U.S.C. 379h(f)(1)) is amended—

(1) by striking ''fiscal year 1993'' and inserting ''fiscal year 1997''; and

(2) by striking ''fiscal year 1992'' and inserting ''fiscal year 1997 (excluding the amount of fees appropriated for such fiscal year)''.

(f) CREDITING AND AVAILABILITY OF FEES.—Section 736(g) (21 U.S.C. 379h(g)) is amended—

(1) in paragraph (1), by adding at the end the following: ''Such sums as may be necessary may be transferred from the Food and Drug Administration salaries and expenses appropriation account without fiscal year limitation to such appropriation account for salaries and expenses with such fiscal year limitation. The sums transferred shall be available solely for the process for the review of human drug applications within the meaning of section 735(6).'';

(2) in paragraph (2)—

(A) in subparagraph (A), by striking ''Acts'' and inserting ''Acts, or otherwise made available for obligation,''; and

(B) in subparagraph (B), by striking ''over such costs for fiscal year 1992'' and inserting ''over such costs, excluding costs paid from fees collected under this section, for fiscal year 1997''; and

(3) by striking paragraph (3) and inserting the following:

''(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fees under this section—

''(A) $106,800,000 for fiscal year 1998;

''(B) $109,200,000 for fiscal year 1999;

''(C) $109,200,000 for fiscal year 2000;

''(D) $114,000,000 for fiscal year 2001; and

''(E) $110,100,000 for fiscal year 2002,

as adjusted to reflect adjustments in the total fee revenues made under this section and changes in the total amounts collected by application, supplement, establishment, and product fees.

''(4) OFFSET.—Any amount of fees collected for a fiscal year which exceeds the amount of fees specified in appropriation Acts for such fiscal year, shall be credited to the appropriation account of the Food and Drug Administration as provided in paragraph (1), and shall be subtracted from the amount of fees that would otherwise be authorized to be collected under appropriation Acts for a subsequent fiscal year.''.

(g) REQUIREMENT FOR WRITTEN REQUESTS FOR WAIVERS, REDUCTIONS, AND FEES.—Section 736 (21 U.S.C. 379h) is amended—

(1) by redesignating subsection (i) as subsection (j); and

(2) by inserting after subsection (h) the following:

''(i) WRITTEN REQUESTS FOR WAIVERS, REDUCTIONS, AND REFUNDS.—To qualify for consideration for a waiver or reduction under subsection (d), or for a refund, of any fee collected in accordance with subsection (a), a person shall submit to the Secretary a written request for such waiver, reduction, or refund not later than 180 days after such fee is due.''.

(h) SPECIAL RULE FOR WAIVER, REFUNDS, AND EXCEPTIONS.—Any requests for waivers, refunds, or exceptions for fees paid prior to the date of enactment of this Act shall be submitted in writing to the Secretary of Health and Human Services within 1 year after the date of enactment of this Act.

SEC. 705. ANNUAL REPORTS.

(a) FIRST REPORT.—Beginning with fiscal year 1998, not later than 60 days after the end of each fiscal year during which fees are collected under part 2 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379g et seq.), the Secretary of Health and Human Services shall prepare and submit to the Committee on Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report concerning the progress of the Food and Drug Administration in achieving the goals identified in the letter described in section 702(4) during such fiscal year and the future plans of the Food and Drug Administration for meeting the goals.

(b) SECOND REPORT.—Beginning with fiscal year 1998, not later than 120 days after the end of each fiscal year during which fees are collected under the part described in subsection (a), the Secretary of Health and Human Services shall prepare and submit to the Committee on Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report on the implementation of the authority for such fees during such fiscal year and the use, by the Food and Drug Administration, of the fees collected during such fiscal year for which the report is made.

SEC. 706. EFFECTIVE DATE.

The amendments made by this title shall take effect October 1, 1997.

SEC. 707. TERMINATION OF EFFECTIVENESS.

The amendments made by sections 703 and 704 cease to be effective October 1, 2002 and section 705 ceases to be effective 120 days after such date.

TITLE VIII—MISCELLANEOUS

SEC. 801. REGISTRATION OF FOREIGN ESTABLISHMENTS.

Section 510(i) (21 U.S.C. 360(i)) is amended to read as follows:

''(i)(1) Any establishment within any foreign country engaged in the manufacture, preparation, propagation, compounding, or processing of a drug or a device that is imported or offered for import into the United States shall register with the Secretary the name and place of business of the establishment and the name of the United States agent for the establishment.

''(2) The establishment shall also provide the information required by subsection (j).

''(3) The Secretary is authorized to enter into cooperative arrangements with foreign countries to ensure that adequate and effective means are available for purposes of determining, from time to time, whether drugs or devices manufactured, prepared, propagated, compounded, or processed by an establishment described in paragraph (1), if imported or offered for import into the United States, shall be refused admission on any of the grounds set forth in section 801(a).''.

SEC. 802. ELIMINATION OF CERTAIN LABELING REQUIREMENTS.

(a) PRESCRIPTION DRUGS.—Section 503(b)(4) (21 U.S.C. 353(b)(4)) is amended to read as follows:

''(4)(A) A drug that is subject to paragraph (1) shall be deemed to be misbranded if at any time prior to dispensing the label of the drug fails to bear, at a minimum, the symbol 'Rx only'.

''(B) A drug to which paragraph (1) does not apply shall be deemed to be misbranded if at any time prior to dispensing the label of the drug bears the symbol described in subparagraph (A).''.

(b) MISBRANDED DRUG.—Section 502(d) (21 U.S.C. 352(d)) is repealed.

(c) CONFORMING AMENDMENTS.—

(1) Section 503(b)(1) (21 U.S.C. 353(b)(1)) is amended—

(A) by striking subparagraph (A); and

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

(2) Section 503(b)(3) (21 U.S.C. 353(b)(3)) is amended by striking ''section 502(d) and''.

(3) Section 102(9)(A) of the Controlled Substances Act (21 U.S.C. 802(9)(A)) is amended—

(A) in clause (i), by striking ''(i)''; and

(B) by striking ''(ii)'' and all that follows.

SEC. 803. CLARIFICATION OF SEIZURE AUTHORITY.

Section 304(d)(1) (21 U.S.C. 334(d)(1)) is amended—

(1) in the fifth sentence, by striking ''paragraphs (1) and (2) of section 801(e)'' and inserting ''subparagraphs (A) and (B) of section 801(e)(1)''; and

(2) by inserting after the fifth sentence the following: ''Any person seeking to export an imported article pursuant to any of the provisions of this subsection shall establish that the article was intended for export at the time the article entered commerce.''.

SEC. 804. INTRAMURAL RESEARCH TRAINING AWARD PROGRAM.

Chapter IX (21 U.S.C. 391 et seq.), as amended by section 203, is further amended by adding at the end the following:

"SEC. 907. INTRAMURAL RESEARCH TRAINING AWARD PROGRAM.

''(a) IN GENERAL.—The Secretary, acting through the Commissioner of Food and Drugs, may, directly or through grants, contracts, or cooperative agreements, conduct and support intramural research training in regulatory scientific programs by predoctoral and postdoctoral scientists and physicians, including support through the use of fellowships.

''(b) LIMITATION ON PARTICIPATION.—A recipient of a fellowship under subsection (a) may not be an employee of the Federal Government.

''(c) SPECIAL RULE.—The Secretary, acting through the Commissioner of Food and Drugs, may support the provision of assistance for fellowships described in subsection (a) through a Cooperative Research and Development Agreement.''.

SEC. 805. DEVICE SAMPLES.

(a) RECALL AUTHORITY.—

(1) IN GENERAL.—Section 518(e)(2) (21 U.S.C. 360h(e)(2)) is amended by adding at the end the following:

''(C) If the Secretary issues an amended order under subparagraph (A), the Secretary may require the person subject to the order to submit such samples of the device and of components of the device as the Secretary may reasonably require. If the submission of such samples is impracticable or unduly burdensome, the requirement of this subparagraph may be met by the submission of complete information concerning the location of 1 or more such devices readily available for examination and testing.''.

(2) TECHNICAL AMENDMENT.—Section 518(e)(2)(A) (21 U.S.C. 360h(e)(2)(A)) is amended by striking ''subparagraphs (B) and (C)'' and inserting ''subparagraph (B)''.

(b) RECORDS AND REPORTS ON DEVICES.—Section 519(a) (21 U.S.C. 360i(a)) is amended by inserting after paragraph (9) the following:

''(10) may reasonably require a manufacturer or importer to submit samples of a device and of components of the device that may have caused or contributed to a death or serious injury, except that if the submission of such samples is impracticable or unduly burdensome, the requirement of this paragraph may be met by the submission of complete information concerning the location of 1 or more such devices readily available for examination and testing.''.

SEC. 806. INTERSTATE COMMERCE.

Section 709 (21 U.S.C. 379a) is amended by striking ''a device'' and inserting ''a device, food, drug, or cosmetic''.

SEC. 807. NATIONAL UNIFORMITY FOR NONPRESCRIPTION DRUGS AND COSMETICS.

(a) NONPRESCRIPTION DRUGS.—Chapter VII (21 U.S.C. 371 et seq.), as amended by section 614(a), is further amended by adding at the end the following:

"Subchapter F—National Uniformity for Nonprescription Drugs and Preemption for Labeling or Packaging of Cosmetics

"SEC. 761. NATIONAL UNIFORMITY FOR NONPRESCRIPTION DRUGS.

''(a) IN GENERAL.—Except as provided in subsection (b), (c)(1), (d), (e), or (f), no State or political subdivision of a State may establish or continue in effect any requirement—

''(1) that relates to the regulation of a drug that is not subject to the requirements of section 503(b)(1) or 503(f)(1)(A); and

''(2) that is different from or in addition to, or that is otherwise not identical with, a requirement under this Act, the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 et seq.), or the Fair Packaging and Labeling Act (15 U.S.C. 1451 et seq.).

''(b) EXEMPTION.—Upon application of a State or political subdivision thereof, the Secretary may by regulation, after notice and opportunity for written and oral presentation of views, exempt from subsection (a), under such conditions as may be prescribed in such regulation, a State or political subdivision requirement that—

''(1) protects an important public interest that would otherwise be unprotected;

''(2) would not cause any drug to be in violation of any applicable requirement or prohibition under Federal law; and

''(3) would not unduly burden interstate commerce.

''(c) SCOPE.—

''(1) IN GENERAL.—This section shall not apply to—

''(A) any State or political subdivision requirement that relates to the practice of pharmacy; or

''(B) any State or political subdivision requirement that a drug be dispensed only upon the prescription of a practitioner licensed by law to administer such drug.

''(2) SAFETY OR EFFECTIVENESS.—For purposes of subsection (a), a requirement that relates to the regulation of a drug shall be deemed to include any requirement relating to public information or any other form of public communication relating to a warning of any kind for a drug.

''(d) EXCEPTIONS.—

''(1) IN GENERAL.—In the case of a drug described in subsection (a)(1) that is not the subject of an application approved under section 505 or 507 or a final regulation promulgated by the Secretary establishing conditions under which the drug is generally recognized as safe and effective and not misbranded, subsection (a) shall apply only with respect to a requirement of a State or political subdivision of a State that relates to the same subject as, but is different from or in addition to, or that is otherwise not identical with—

''(A) a regulation in effect with respect to the drug pursuant to a statute described in subsection (a)(2); or

''(B) any other requirement in effect with respect to the drug pursuant to an amendment to such a statute made on or after the date of enactment of this section.

''(2) STATE INITIATIVES.—This section shall not apply to a State public initiative enacted prior to the date of enactment of this section.

''(e) NO EFFECT ON PRODUCT LIABILITY LAW.—Nothing in this section shall be construed to modify or otherwise affect any action or the liability of any person under the product liability law of any State.

''(f) STATE ENFORCEMENT AUTHORITY.—Nothing in this section shall prevent a State or political subdivision thereof from enforcing, under any relevant civil or other enforcement authority, a requirement that is identical to a requirement of this Act.''.

(b) INSPECTIONS.—Section 704(a)(1) (21 U.S.C. 374(a)(1)) is amended by striking ''prescription drugs'' each place it appears and inserting ''prescription drugs, nonprescription drugs intended for human use,''.

(c) MISBRANDING.—Paragraph (1) of section 502(e) (21 U.S.C. 352(e)(1)) is amended to read as follows:

''(1)(A) If it is a drug, unless its label bears, to the exclusion of any other nonproprietary name (except the applicable systematic chemical name or the chemical formula)—

''(i) the established name (as defined in subparagraph (3)) of the drug, if there is such a name;

''(ii) the established name and quantity or, if deemed appropriate by the Secretary, the proportion of each active ingredient, including the quantity, kind, and proportion of any alcohol, and also including whether active or not the established name and quantity or if deemed appropriate by the Secretary, the proportion of any bromides, ether, chloroform, acetanilide, acetophenetidin, amidopyrine, antipyrine, atropine, hyoscine, hyoscyamine, arsenic, digitalis, digitalis glucosides, mercury, ouabain, strophanthin, strychnine, thyroid, or any derivative or preparation of any such substances, contained therein: *Provided*, That the requirement for stating the quantity of the active ingredients, other than the quantity of those specifically named in this paragraph, shall not apply to nonprescription drugs not intended for human use; and

''(iii) the established name of each inactive ingredient listed in alphabetical order on the outside container of the retail package and, if deemed appropriate by the Secretary, on the immediate container, as prescribed in regulation promulgated by the Secretary, but nothing in this clause shall be deemed to require that any trade secret be divulged: *Provided*, That the requirements of this clause with respect to alphabetical order shall apply only to nonprescription drugs that are not also cosmetics: and *Provided further*, That this clause shall not apply to nonprescription drugs not intended for human use.

''(B) For any prescription drug the established name of such drug or ingredient, as the case may be, on such label (and on any labeling on which a name for such drug or ingredient is used) shall be printed prominently and in type at least half as large as that used thereon for any proprietary name or designation for such drug or ingredient: *Provided*, That to the extent that compliance with the requirements of clause (A)(ii) or (iii) or this clause of this subparagraph is impracticable, exemptions shall be established by regulations promulgated by the Secretary.''.

(d) COSMETICS.—Subchapter F of chapter VII, as amended by subsection (a), is further amended by adding at the end the following:

SEC. 762. PREEMPTION FOR LABELING OR PACKAGING OF COSMETICS.

''(a) IN GENERAL.—Except as provided in subsection (b), (d), or (e), a State or political subdivision of a State shall not impose or continue in effect any requirement for labeling or packaging of a cosmetic that is different from or in addition to, or that is otherwise not identical with a requirement specifically applicable to a particular cosmetic or class of cosmetics under this Act, the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 et seq.), or the Fair Packaging and Labeling Act (15 U.S.C. 1451 et seq.).

''(b) EXEMPTION.—Upon application of a State or political subdivision thereof, the Secretary may by regulation after notice and opportunity for written and oral presentation of views, exempt from subsection (a), under such conditions as may be prescribed in such regulation, a State or political subdivision requirement for labeling and packaging that—

''(1) protects an important public interest that would otherwise be unprotected;

''(2) would not cause a cosmetic to be in violation of any applicable requirements or prohibition under Federal law; and

''(3) would not unduly burden interstate commerce.

''(c) SCOPE.—For purposes of subsection (a), a reference to a State requirement that relates to the packaging or labeling of a cosmetic means any specific requirement relating to the same aspect of such cosmetic as a requirement specifically applicable to that particular cosmetic or class of cosmetics under this Act for packaging or labeling, including any State requirement relating to public information or any other form of public communication.

''(d) NO EFFECT ON PRODUCT LIABILITY LAW.—Nothing in this section shall be construed to modify or otherwise affect any action or the liability of any person under the product liability law of any State.

''(e) STATE INITIATIVE.—This section shall not apply to a State requirement adopted by a State public initiative or referendum enacted prior to September 1, 1997.''.

SEC. 808. INFORMATION PROGRAM ON CLINICAL TRIALS FOR SERIOUS OR LIFE-THREATENING DISEASES.

(a) IN GENERAL.—Section 402 of the Public Health Service Act (42 U.S.C. 282) is amended—

(1) by redesignating subsections (j) and (k) as subsections (k) and (l), respectively; and

(2) by inserting after subsection (i), the following:

''(j)(1) The Secretary, acting through the Director of the National Institutes of Health and subject to the availability of appropriations, shall establish, maintain, and operate a program with respect to information on research relating to the treatment, detection, and prevention of serious or life-threatening diseases and conditions. The program shall, with respect to the agencies of the Department of Health and Human Services, be integrated and coordinated, and, to the extent practicable, coordinated with other data banks containing similar information.

''(2)(A) After consultation with the Commissioner of Food and Drugs, the directors of the appropriate agencies of the National Institutes of Health (including the National Library of Medicine), and the Director of the Centers for Disease Control and Prevention, the Secretary shall, in carrying out paragraph (1), establish a data bank of information on clinical trials for drugs, and biologicals, for serious or life-threatening diseases and conditions.

''(B) In carrying out subparagraph (A), the Secretary shall collect, catalog, store, and disseminate the information described in such subparagraph. The Secretary shall disseminate such information through information systems, which shall include toll-free telephone communications, available to individuals with serious or life-threatening diseases and conditions, to other members of the public, to health care providers, and to researchers.

''(3) The data bank shall include the following:

''(A) A registry of clinical trials (whether federally or privately funded) of experimental treatments for serious or life-threatening diseases and conditions under regulations promulgated pursuant to sections 505 and 520 of the Federal Food, Drug, and Cosmetic Act that provides a description of the purpose of each experimental drug or biological protocol, either with the consent of the protocol sponsor, or when a trial to test efficacy begins. Information provided shall consist of eligibility criteria, a description of the location of trial sites, and a point of contact for those wanting to enroll in the trial, and shall be in a form that can be readily understood by members of the public. Such information must be forwarded to the data bank by the sponsor of the trial not later than 21 days after the approval by the Food and Drug Administration.

''(B) Information pertaining to experimental treatments for serious or life-threatening diseases and conditions that may be available—

''(i) under a treatment investigational new drug application that has been submitted to the Food and Drug Administration pursuant to part 312 of title 21, Code of Federal Regulations; or

''(ii) as a Group C cancer drug.

The data bank may also include information pertaining to the results of clinical trials of such treatments, with the consent of the sponsor, including information concerning potential toxicities or adverse effects associated with the use or administration of such experimental treatments.

''(4) The data bank shall not include information relating to an investigation if the sponsor has provided a detailed certification to the Secretary that disclosure of such information would substantially interfere with the timely enrollment of subjects in the investigation, unless the Secretary, after the receipt of the certification, provides the sponsor with a detailed written determination that finds that such disclosure would not substantially interfere with such enrollment.

''(5) For the purpose of carrying out this subsection, there are authorized to be appropriated such sums as may be necessary. Fees collected under section 736 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379h) shall not be authorized or appropriated for use in carrying out this subsection.''.

(b) COLLABORATION AND REPORT.—

(1) IN GENERAL.—The Secretary of Health and Human Services, the Director of the National Institutes of Health, and the Commissioner of Food and Drugs shall collaborate to determine the feasibility of including device investigations within the scope of the registry requirements set forth in subsection (j) of section 402 of the Public Health Service Act.

(2) REPORT.—Not later than 2 years after the date of enactment of this section, the Secretary of Health and Human Services shall prepare and submit to the Committee on Labor and Human Resources of the Senate and the Committee on Commerce of the House of Representatives a report that shall consider, among other things—

(A) the public health need, if any, for inclusion of device investigations within the scope of the registry requirements set forth in subsection (j) of section 402 of the Public Health Service Act; and

(B) the adverse impact, if any, on device innovation and research in the United States if information relating to such device investigation is required to be publicly disclosed.

SEC. 809. APPLICATION OF FEDERAL LAW TO THE PRACTICE OF PHARMACY COMPOUNDING.

Section 503 (21 U.S.C. 353) is amended by adding at the end the following:

''(h)(1) Sections 501(a)(2)(B), 502(f)(1), 502(l), 505, and 507 shall not apply to a drug product if—

''(A) the drug product is compounded for an identified individual patient, based on a medical need for a compounded product—

''(i) by a licensed pharmacist in a State licensed pharmacy or a Federal facility, or a licensed physician, on the prescription order of a licensed physician or other licensed practitioner authorized by State law to prescribe drugs; or

''(ii) by a licensed pharmacist or licensed physician in limited quantities, prior to the receipt of a valid prescription order for the identified individual patient, and is compounded based on a history of the licensed pharmacist or licensed physician receiving valid prescription orders for the compounding of the drug product that have been generated solely within an established relationship between the licensed pharmacist, or licensed physician, and—

''(I) the individual patient for whom the prescription order will be provided; or

''(II) the physician or other licensed practitioner who will write such prescription order; and

''(B) the licensed pharmacist or licensed physician—

''(i) compounds the drug product using bulk drug substances—

''(I) that—

''(aa) comply with the standards of an applicable United States Pharmacopeia monograph; or

''(bb) in a case in which such a monograph does not exist, are drug substances that are covered by regulations issued by the Secretary under paragraph (3);

''(II) that are manufactured by an establishment that is registered under section 510 (including a foreign establishment that is registered under section 510(i)); and

''(III) that are accompanied by valid certificates of analysis for each bulk drug substance;

''(ii) compounds the drug product using ingredients (other than bulk drug substances) that comply with the standards of an applicable United States Pharmacopeia monograph and the United States Pharmacopeia chapter on pharmacy compounding;

''(iii) only advertises or promotes the compounding service provided by the licensed pharmacist or licensed physician and does not advertise or promote the compounding of any particular drug, class of drug, or type of drug;

''(iv) does not compound a drug product that appears on a list published by the Secretary in the Federal Register of drug products that have been withdrawn or removed from the market because such drug products or components of such drug products have been found to be unsafe or not effective;

''(v) does not compound a drug product that is identified by the Secretary in regulation as presenting demonstrable difficulties for compounding that reasonably demonstrate an adverse effect on the safety or effectiveness of that drug product; and

''(vi) does not distribute compounded drugs outside of the State in which the drugs are compounded, unless the principal State agency of jurisdiction that regulates the practice of pharmacy in such State has entered into a memorandum of understanding with the Secretary (based on the adequate regulation of compounding performed in the State) that provides for appropriate investigation by the State agency of complaints relating to compounded products distributed outside of the State.

''(2)(A) The Secretary shall, after consultation with the National Association of Boards of Pharmacy, develop a standard memorandum of understanding for use by States in complying with paragraph (1)(B)(vi).

''(B) Paragraph (1)(B)(vi) shall not apply to a licensed pharmacist or licensed physician, who does not distribute inordinate amounts of compounded products outside of the State, until—

''(i) the date that is 180 days after the development of the standard memorandum of understanding; or

''(ii) the date on which the State agency enters into a memorandum of understanding under paragraph (1)(B)(vi),

whichever occurs first.

''(3) The Secretary, after consultation with the United States Pharmacopeia Convention Incorporated, shall promulgate regulations limiting compounding under paragraph (1)(B)(i)(I)(bb) to drug substances that are components of drug products approved by the Secretary and to other drug substances as the Secretary may identify.

''(4) The provisions of paragraph (1) shall not apply—

''(A) to compounded positron emission tomography drugs as defined in section 201(ii); or

''(B) to radiopharmaceuticals.

''(5) In this subsection, the term 'compound' does not include to mix, reconstitute, or perform another similar act, in accordance with directions contained in drug labeling provided by a drug manufacturer.''.

SEC. 810. REPORTS OF POSTMARKETING APPROVAL STUDIES.

(a) IN GENERAL.—Chapter V (21 U.S.C. 351 et seq.), as amended by section 613(a), is further amended by adding at the end the following:

"SEC. 562. REPORTS OF POSTMARKETING STUDIES.

''(a) SUBMISSION.—

''(1) IN GENERAL.—A sponsor of a drug that has entered into an agreement with the Secretary to conduct a postmarketing study of a drug shall submit to the Secretary, within 1 year after the approval of such drug and annually thereafter until the study is completed or terminated, a report of the progress of the study or the reasons for the failure of the sponsor to conduct the study. The report shall be submitted in such form as prescribed by the Secretary in regulations issued by the Secretary.

''(2) AGREEMENTS PRIOR TO EFFECTIVE DATE.—An agreement entered into between the Secretary and a sponsor of a drug, prior to the date of enactment of this section, to conduct a postmarketing study of a drug shall be subject to the requirements of paragraph (1). An initial report for such an agreement shall be submitted within 6 months after the date of the issuance of the regulations under paragraph (1).

''(b) CONSIDERATION OF INFORMATION AS PUBLIC INFORMATION.—Any information pertaining to a report described in paragraph (1) shall be considered to be public information to the extent that the information is necessary—

''(1) to identify the sponsor; and

''(2) to establish the status of a study described in subsection (a) and the reasons, if any, for any failure to carry out the study.

''(c) STATUS OF STUDIES AND REPORTS.—The Secretary shall annually develop and publish in the Federal Register a report that provides a status of the postmarketing studies—

''(1) that sponsors have entered into agreements to conduct; and

''(2) for which reports have been submitted under subsection (a)(1).''.

(b) REPORT TO CONGRESSIONAL COMMITTEES.—Not later than October 1, 2001, the Secretary shall prepare and submit to the Committee on Labor and Human Resources of the Senate and the Committee on Commerce of the House of Representatives a report containing—

(1) a summary of the reports submitted under section 562 of the Federal Food, Drug, and Cosmetic Act; and

(2) an evaluation of—

(A) the performance of the sponsors in fulfilling the agreements with respect to the conduct of postmarketing studies described in such section of such Act;

(B) the timeliness of the Secretary's review of the postmarketing studies; and

(C) any legislative recommendations respecting postmarketing studies.

SEC. 811. INFORMATION EXCHANGE.

(a) IN GENERAL.—Chapter VII (2 U.S.C. 371 et seq.), as amended by section 807, is further amended by adding at the end the following:

"Subchapter G—Dissemination of Treatment Information

"SEC. 771. DISSEMINATION OF TREATMENT INFORMATION ON DRUGS, BIOLOGICAL PRODUCTS, AND DEVICES.

''(a) DISSEMINATION OF TREATMENT INFORMATION.—

''(1) IN GENERAL.—Notwithstanding sections 301(d), 502(f), 505, and 507 and section 351 of the Public Health Service Act (42 U.S.C. 262), and subject to the requirements of paragraphs (2) through (6) and subsection (b), a manufacturer may disseminate to a health care practitioner, a pharmacy benefit manager, a health maintenance organization or other managed health care organization, or a health care insurer or governmental agency, written information concerning the safety, effectiveness, or benefit (whether or not such information is contained in the official labeling) of a drug, biological product, or device for which—

''(A) an approval of an application filed under section 505(b), 505(j), or 515, a clearance in accordance with section 510(k), an approval in accordance with section 507, or a biologics license issued under section 351 of the Public Health Service Act, is in effect; and

''(B) if the use is not described in the approved labeling of the product, the manufacturer has submitted to the Secretary a certification that a supplemental application for that use will be submitted to the Secretary pursuant to paragraph (3) or the manufacturer has received an exemption under paragraph (3)(C).

''(2) AUTHORIZED INFORMATION.—A manufacturer may disseminate the written information under paragraph (1) only if the information—

''(A) is in the form of an unabridged—

''(i) reprint or copy of a peer-reviewed article from a scientific or medical journal (as defined in subsection (c)(5)) of a clinical investigation, with respect to a drug, biological product or device, that would be considered to be scientifically sound by experts qualified by scientific training or experience to evaluate the safety or effectiveness of the drug, biological product, or device that is the subject of such clinical investigation; or

''(ii) reference textbook (as defined in subsection (c)(4)) that includes information about a clinical investigation with respect to a drug, biological product, or device, that would be considered to be scientifically sound by experts qualified by scientific training or experience to evaluate the safety or effectiveness of the drug, biological product, or device that is the subject of such clinical investigation; and

''(B) is not false, not misleading, and would not pose a significant risk to the public health.

''(3) COMMITMENT TO FILE A SUPPLEMENTAL APPLICATION; INCENTIVES FOR RESEARCH.—

''(A) IN GENERAL.—A manufacturer may disseminate information about a use not described in the approved labeling of a drug, biological product, or device pursuant to paragraph (1) only if—

''(i) the manufacturer has submitted to the Secretary a certification that the studies needed to file a supplemental application for such use have been completed and such supplement will be filed within 6 months after the date of the initial dissemination of information under paragraph (1); or

''(ii)(I) the manufacturer has submitted to the Secretary a proposed protocol and schedule for conducting the studies needed to submit a supplemental application for such use and has certified that the supplement will be submitted within 36 months after the date of the initial dissemination of information under paragraph (1); and

''(II) the Secretary has determined that the protocol for conducting such studies is adequate and that the schedule for completing such studies is reasonable.

''(B) EXTENSION.—

''(i) LONGER PERIOD OF TIME.—The Secretary may grant a longer period of time for a manufacturer to submit a supplemental application pursuant to subparagraph (A) if the Secretary determines that the studies needed to submit a supplemental application cannot be completed and submitted within 36 months.

''(ii) EXTENSION OF 3-YEAR PERIOD.—The Secretary may extend the time within which a manufacturer must submit a supplemental application pursuant to subparagraph (A) if the manufacturer demonstrates that the manufacturer has acted with due diligence to conduct the studies in a timely manner. Such extension shall not exceed a period of 24 months.

''(C) EXEMPTIONS.—A manufacturer may file a request for an exemption from the requirements set forth in subparagraph (A). Such request shall be submitted in the form and manner prescribed by the Secretary and shall demonstrate that—

''(i) due to the size of the patient population or the lack of potential benefit to the sponsor, the cost of obtaining clinical information and submitting a supplemental application is economically prohibitive; or

''(ii) it would be unethical to conduct the studies necessary to obtain adequate evidence for approval of a supplemental application.

The Secretary shall act on a request for an exemption under this subparagraph within 60 days after the receipt of the request. If the Secretary fails to act within 60 days, the manufacturer may begin to disseminate information pursuant to paragraph (1) without complying with subparagraph (A). If the Secretary subsequently denies the request for an exemption, the manufacturer either shall cease dissemination or shall comply with the requirements of subparagraph (A) within 60 days after such denial. If the manufacturer ceases dissemination pursuant to this subparagraph solely on the basis that the manufacturer does not comply with subparagraph (A), the Secretary may take appropriate corrective action, but may not order the manufacturer to take corrective action.

''(D) REPORT.—A manufacturer who submits a certification to the Secretary under subparagraph (A) shall provide the Secretary periodic reports that describe the status of the studies being conducted to obtain adequate evidence for approval of a supplemental application.

''(4) INFORMATION ON NEW USES.—

''(A) IN GENERAL.—If the information being disseminated under paragraph (1) meets the requirements of this section, a manufacturer may disseminate information under paragraph (1) concerning the new use of a drug, biological product, or device (described in paragraph (1)) 60 calendar days after the manufacturer has submitted to the Secretary—

''(i) a copy of the information; and

''(ii) any clinical trial information the manufacturer has relating to the safety or efficacy of the new use, any reports of clinical experience pertinent to the safety of the new use, and a summary of such information.

If any of the information required to be provided under clause (ii) has already been provided to the Secretary, the manufacturer may meet the requirements of clause (ii) by providing any such information obtained by the manufacturer since the manufacturer's last submission to the Secretary and a summary that identifies the information previously provided.

''(B) ADDITIONAL INFORMATION.—If the Secretary determines that the information submitted by a manufacturer under subparagraph (A)(i) with respect to a new use of a drug, biological product, or device fails to provide data, analyses, or other written matter, that is objective and balanced, the Secretary may require the manufacturer to disseminate along with the information described in subparagraph (A)—

''(i) additional information with respect to the new use of the drug, biological product, or device that—

''(I) is in the form of an article described in paragraph (2)(A); and

''(II) provides data, analyses, or other written matter, that is scientifically sound;

''(ii) additional objective and scientifically sound information that pertains to the safety or efficacy of the use and is necessary to provide objectivity and balance, including any information that the manufacturer has submitted to the Secretary, or where appropriate, a summary of such information, or any other information that the Secretary has authority to make available to the public;

''(iii) an objective statement prescribed by the Secretary based on information described in clause (i) or (ii), provided the manufacturer has access to the data that forms the basis of such statement unless the Secretary is prohibited from making such data available to the manufacturer; and

''(iv) a statement that describes any previous public announcements by the Secretary relevant to the new use.

''(5) NEW INFORMATION.—If a manufacturer that is disseminating information pursuant to paragraph (1) becomes aware of new information relating to the safety or efficacy of a new use of a drug, biological product, or device for which information was disseminated under paragraph (1), the manufacturer shall notify the Secretary with respect to the new information. If the Secretary determines that the new information demonstrates that a drug, biological product, or device may not be effective or may present a significant risk to public health, the Secretary shall, in consultation with the manufacturer, take such appropriate action as the Secretary determines necessary to ensure public health and safety. The Secretary may limit the types of new information that must be submitted under this paragraph.

''(6) CESSATION OF DISSEMINATION; CORRECTIVE ACTION.—The Secretary may order a manufacturer to cease the dissemination of all information being disseminated pursuant to paragraph (1) if—

''(A) the Secretary finds that a supplemental application does not contain adequate information for approval for the use that is the subject of the information;

''(B) the Secretary determines, after an informal hearing, that the manufacturer is not acting with due diligence to complete the studies necessary to file a supplemental application for the use that is the subject of the information being disseminated; or

''(C) the Secretary determines that the information being disseminated does not comply with the requirements set forth in this section, after providing notice, an opportunity for a meeting, and for minor violations of this section (if there has been substantial compliance with this section), an opportunity to correct such information.

If the Secretary orders cessation of dissemination pursuant to this paragraph, the Secretary may order the manufacturer to take appropriate corrective action.

''(7) SPONSORED RESEARCH.—If a manufacturer has sponsored research that results in information as described in paragraph (2)(A), another manufacturer may not distribute the information under this section, unless such manufacturer is required by the Secretary to distribute the information.

''(b) DISCLOSURE STATEMENT.—In order to afford a full and fair evaluation of the information described in subsection (a), a manufacturer disseminating the information shall include along with the information—

''(1) a prominently displayed statement that discloses—

''(A) that the information concerns a use of a drug, biological product, or device or other attribute of a drug, biological product, or device that has not been approved by the Food and Drug Administration;

''(B) if applicable, that the information is being disseminated at the expense of the manufacturer;

''(C) if applicable, the name of any authors of the information who are employees of, or consultants to, or have received compensation from, the manufacturer, or who have a significant financial interest in the manufacturer;

''(D) the official labeling for the drug, biological product, or device and all updates with respect to the labeling;

''(E) if applicable, a statement that there are products or treatments that have been approved for the use that is the subject of the information being disseminated pursuant to subsection (a)(1); and

''(F) the identification of any person that has provided funding for the conduct of a study relating to a new use of a drug, biological product, or device for which such information is being disseminated; and

''(2) a bibliography of other articles from a scientific reference textbook or scientific or medical journal that have been previously published about the new use of a drug, biological product, or device covered by the information disseminated (unless the information already includes such bibliography).

''(c) DEFINITIONS.—As used in this section:

''(1) HEALTH CARE PRACTITIONER.—The term 'health care practitioner' means a medical provider that is licensed to prescribe a drug or biological product, or to prescribe or use a device, for the treatment of a disease or other medical condition.

''(2) MANUFACTURER.—The term 'manufacturer' includes a person who manufactures, distributes, or markets a drug, biological product, or device.

''(3) NEW USE.—The term 'new use' used with respect to a drug, biological product, or device means a use of a drug, biological product, or device not included in the approved labeling of such drug, biological product, or device.

''(4) REFERENCE TEXTBOOK.—The term 'reference textbook' means a reference publication that—

''(A) has not been written, edited, excerpted, or published specifically for, or at the request of a manufacturer of a drug, biological product, or device;

''(B) has not been edited or significantly influenced by a manufacturer of a drug, biological product, or device;

''(C) is not solely distributed through a manufacturer of a drug, biological product, or device but is generally available in bookstores or other distribution channels where medical textbooks are sold;

''(D) does not focus on any particular drug, biological product, or device of a manufacturer that disseminates information under subsection (a), and does not have a primary focus on new uses of drugs, biological products, or devices that are marketed or under investigation by a manufacturer supporting the dissemination of information; and

''(E) presents materials that are not false or misleading.

''(5) SCIENTIFIC OR MEDICAL JOURNAL.—The term 'scientific or medical journal' means a scientific or medical publication—

''(A) that is published by an organization—

''(i) that has an editorial board;

''(ii) that utilizes experts, who have demonstrated expertise in the subject of an article under review by the organization and who are independent of the organization, to review and objectively select, reject, or provide comments about proposed articles; and

''(iii) that has a publicly stated policy, to which the organization adheres, of full disclosure of any conflict of interest or biases for all authors or contributors involved with the journal or organization;

''(B) whose articles are peer-reviewed and published in accordance with the regular peer-review procedures of the organization;

''(C) that is generally recognized to be of national scope and reputation;

''(D) that is indexed in the Index Medicus of the National Library of Medicine of the National Institutes of Health;

''(E) that presents materials that are not false or misleading; and

''(F) that is not in the form of a special supplement that has been funded in whole or in part by 1 or more manufacturers.

''(d) CONSTRUCTION.—Nothing in this section shall be construed as prohibiting a manufacturer from disseminating information in response to an unsolicited request from a health care practitioner.

''(e) STUDIES AND REPORTS.—

''(1) GENERAL ACCOUNTING OFFICE.—

''(A) IN GENERAL.—The Comptroller General of the United States shall conduct a study to determine the impact of this section on the resources of the Department of Health and Human Services.

''(B) REPORT.—Not later than January 1, 2002, the Comptroller General of the United States shall prepare and submit to the Committee on Labor and Human Resources of the Senate and the Committee on Commerce of the House of Representatives a report of the results of the study.

''(2) DEPARTMENT OF HEALTH AND HUMAN SERVICES.—

''(A) IN GENERAL.—In order to assist Congress in determining whether the provisions of this section should be extended beyond the termination date specified in section 811(e) of the Food and Drug Administration Modernization and Accountability Act of 1997, the Secretary of Health and Human Services shall, in accordance with subparagraph (B), arrange for the conduct of a study of the scientific issues raised as a result of the enactment of this section, including issues relating to—

''(i) the effectiveness of this section with respect to the provision of useful scientific information to health care practitioners;

''(ii) the quality of the information being disseminated pursuant to the provisions of this section;

''(iii) the quality and usefulness of the information provided, in accordance with this section, by the Secretary or by the manufacturer at the request of the Secretary; and

''(iv) the impact of this section on research in the area of new uses, indications, or dosages, particularly the impact on pediatric indications and rare diseases.

''(3) PROCEDURE FOR STUDY.—

''(A) IN GENERAL.—The Secretary shall request the Institute of Medicine of the National Academy of Sciences to conduct the study required by paragraph (2), and to prepare and submit the report required by subparagraph (B), under an arrangement by which the actual expenses incurred by the Institute of Medicine in conducting the study and preparing the report will be paid by the Secretary. If the Institute of Medicine is unwilling to conduct the study under such an arrangement, the Secretary shall enter into a similar arrangement with another appropriate nonprofit private group or association under which the group or association will conduct the study and prepare and submit the report.

''(B) REPORT.—Not later than September 30, 2005, the Institute of Medicine, the group, or association, as appropriate, shall prepare and submit to the Committee on Labor and Human Resources of the Senate, the Committee on Commerce of the House of Representatives, and the Secretary a report of the results of the study required by paragraph (2). The Secretary, after the receipt of

the report, shall make the report available to the public.

''(4) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated such sums as are necessary to carry out this subsection.

''SEC. 772. ESTABLISHMENT OF LIST OF ARTICLES AND TEXTBOOKS DISSEMINATED AND LIST OF PROVIDERS THAT RECEIVED ARTICLES AND REFERENCE TEXTBOOKS.

''(a) IN GENERAL.—A manufacturer that disseminates information in the form of articles or reference textbooks under section 771 shall prepare and submit to the Secretary biannually—

''(1) a list containing the titles of the articles and reference textbooks relating to the new use of drugs, biological products, and devices that were disseminated by the manufacturer to a person described in section 771(a)(1) for the 6-month period preceding the date on which the manufacturer submits the list to the Secretary; and

''(2) a list that identifies the categories of providers (as described in section 771(a)(1)) that received the articles and reference textbooks for the 6-month period described in paragraph (1).

''(b) RECORDS.—A manufacturer that disseminates information under section 771 shall keep records that identify the recipients of articles and textbooks provided pursuant to section 771. Such records are to be used by the manufacturer when, pursuant to section 771(a)(6), such manufacturer is required to take corrective action and shall be made available to the Secretary, upon request, for purposes of ensuring or taking corrective action pursuant to paragraph (3), (5), or (6) of section 771(a).

''SEC. 773. CONSTRUCTION.

''(a) DISSEMINATION OF INFORMATION ON DRUGS OR DEVICES NOT EVIDENCE OF INTENDED USE.—Notwithstanding subsection (a), (f), or (o) of section 502, or any other provision of law, the dissemination of information relating to a new use of a drug or device, in accordance with section 771, shall not be construed by the Secretary as evidence of a new intended use of the drug or device that is different from the intended use of the drug or device set forth in the official labeling of the drug or device. Such dissemination shall not be considered by the Secretary as labeling, adulteration, or misbranding of the drug or device.

''(b) PATENT PROTECTION.—Nothing in section 771 shall affect patent rights in any manner.

''(c) AUTHORIZATION FOR DISSEMINATION OF ARTICLES AND FEES FOR REPRINTS OF ARTICLES.—Nothing in section 771 shall be construed as prohibiting an entity that publishes a scientific journal (as defined in section 771(c)(5)) from requiring authorization from the entity to disseminate an article published by such entity and from charging fees for the purchase of reprints of published articles from such entity.''.

(b) PROHIBITED ACT.—Section 301 (21 U.S.C. 331), as amended by section 205(b), is further amended by adding at the end the following:

''(y) The dissemination of information pursuant to section 771 by a manufacturer who fails to comply with the requirements of such section.''.

(c) REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall promulgate regulations to implement the amendments made by this section.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 year after the date of enactment of this Act, or upon the Secretary's issuance of final regulations pursuant to subsection (c), whichever is sooner.

(e) TERMINATION OF EFFECTIVENESS.—The amendments made by this section cease to be effective September 30, 2006, or 7 years after the date on which the Secretary promulgates the regulations described in subsection (c), whichever is later.

SEC. 812. REAUTHORIZATION OF CLINICAL PHARMACOLOGY PROGRAM.

Section 2 of Public Law 102–222 (105 Stat. 1677) is amended—

(1) in subsection (a), by striking ''a grant'' and all that follows through ''Such grant'' and inserting the following: ''grants for a pilot program for the training of individuals in clinical pharmacology at appropriate medical schools. Such grants''; and

(2) in subsection (b), by striking ''to carry out this section'' and inserting '', and for fiscal years 1998 through 2002 $3,000,000 for each fiscal year, to carry out this section''.

SEC. 813. MONOGRAPH FOR SUNBURN PRODUCTS.

Not later than 18 months after the date of enactment of this Act, the Secretary of Health and Human Services shall issue a final monograph for over-the-counter sunburn products for prevention or treatment of sunburn.

SNOWE (AND OTHERS) AMENDMENT NO. 1131

(Ordered to lie on the table.)

Ms. SNOWE (for herself, Mrs. MURRAY, Mr. D'AMATO, Ms. MOSELEY-BRAUN, Mr. FAIRCLOTH, and Ms. MIKULSKI) submitted an amendment intended to be proposed by them to the bill, S. 830, supra; as follows:

At the appropriate place, insert the following:

SEC. . OFFICE OF WOMEN'S HEALTH.

Chapter IX (21 U.S.C. 391 et seq.), as amended by section 804, is further amended by adding at the end the following:

''SEC. 908. OFFICE OF WOMEN'S HEALTH.

''(a) ESTABLISHMENT.—There is established within the Office of the Commissioner of the Food and Drug Administration an office to be known as the Office of Women's Health (hereafter referred to in this section as the 'Office'). The Office shall be headed by a Director who shall be appointed by the Commissioner of the Agency.

''(b) PURPOSE.—The Office shall—

''(1) monitor current levels of activity regarding women's participation in clinical trials and the study of gender differences in the testing of drugs, medical devices, and biological products;

''(2) advise the agency in providing guidance or criteria for drug and device manufacturers to use in determining the extent and sufficiency of female representation in clinical trials;

''(3) consult with women's health advocacy organizations, health professionals with expertise in women's issues, consumer organizations, and pharmaceutical manufacturers on Commission policy with regard to women's health.

''(4) make annual estimates of funds needed to monitor clinical trials in accordance with needs that are identified; and

''(5) coordinate women's health activities throughout the Food and Drug Administration.

''(c) COORDINATING COMMITTEE.—

''(1) ESTABLISHMENT.—In carrying out subsection (b), the Director of the Office shall establish a committee to be known as the Coordinating Committee on Women's Health (hereafter referred to in this subsection as the 'Coordinating Committee').

''(2) COMPOSITION.—The Coordinating Committee shall be composed of the Directors of the Food and Drug Adminstration Centers or their representatives.

''(3) CHAIRPERSON.—The Director of the Office shall serve as the Chairperson of the Coordinating Committee.

''(4) DUTIES.—With respect to advancing women's health within the mission of the Food and Drug Administration, the Coordinating Committee shall assist the Director of the Office in—

''(A) identifying the need for further studies in specific areas of women's health that fall within the mission of the agency, and developing strategies to foster such studies;

''(B) advising and expediting the intramural research funding process;

''(C) identifying needs regarding the coordination of agency activities; and

''(D) maintaining the agency's focus in ensuring that all agency actions are conducive to women's health.

''(d) REPORTS.—Not later than January 31, 1998, and January 31 of each second year thereafter, the Director shall prepare and submit to the Commissioner of the Food and Drug Administration, a report describing the activities carried out under this section during the preceding 2 fiscal years.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this section.''.

THE DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

GREGG AMENDMENT NO. 1132

Mr. GORTON (for Mr. GREGG) proposed an amendment to the bill (H.R. 2107) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1998, and for other purposes; as follows:

On page 126, line 16, insert after ''government'' the following ''that lies in whole or in part within the White Mountain National Forest and is''

On page 126, line 19, strike ''recreational user fee'' and insert in lieu thereof: ''Demonstration Program Fee (parking permit or passport)''

On page 126, line 21–22, strike ''White Mountain National'' and ''that lies, in whole or in part, within those boundaries.''

RESOLUTION ON THE BOMBING IN JERUSALEM

HUTCHINSON (AND BREAUX) AMENDMENT NO. 1133

Mr. GORTON (for Mr. HUTCHINSON, for himself and Mr. BREAUX) proposed an amendment to the concurrent resolution (S. Con. Res. 50) condemning in the strongest possible terms the bombing in Jerusalem on September 4, 1997; as follows:

On page 3, beginning on line 6, strike out ''should provide'' and all that follows through ''it has fulfilled'' and insert in lieu thereof ''will only provide monetary or other assistance to the Palestinian Authority once it has fulfilled''.

On page 3, strike out lines 16 and 17.

On page 3, line 18, strike out ''(E)'' and insert in lieu thereof ''(D)''.

On page 3, line 21, strike out ''(F)'' and insert in lieu thereof ''(E)''.

On page 4, line 1, strike out ''(G)'' and insert in lieu thereof ''(F)''.

On page 4, strike out lines 3 through 5.

On page 4, line 6, strike out ''(I)'' and insert in lieu thereof ''(G)''.

On page 4, line 9, strike out ''(J)'' and insert in lieu thereof ''(H)''.

On page 4, line 15, strike out ''(K) taking affirmative steps to reduce the size of the Palestinian police force,'' and insert in lieu thereof ''(I) taking affirmative steps to ensure that the size of the Palestinian police force is''.

NOTICE OF HEARING

COMMITTEE ON RULES AND ADMINISTRATION

Mr. WARNER. Mr. President, I wish to announce that the Committee on Rules and Administration will hold a hearing in SR–301, Russell Senate Office Building, on Thursday, September 18, 1997 at 2 p.m. to receive testimony relating to the contested Senate election in Louisiana in November, 1996.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Thursday, September 11, 1997 at 9 a.m. in SD–106 to examine the broad implications of the recently proposed tobacco settlement.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. LOTT. 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, September 11, 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 on S. 660, a bill to provide for the continuation of higher education through the conveyance of certain lands in the State of Alaska to the University of Alaska, and for other purposes, and S. 1092, a bill to provide for a transfer of land interests in order to facilitate surface transportation between the cities of Cold Bay, AK, and King Cove, AK, and for other purposes.

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

COMMITTEE ON FINANCE

Mr. LOTT. Mr. President: I ask unanimous consent that the Committee on Finance be permitted to meet Thursday, September 11, 1997 beginning at 10 a.m. in room SH–215, to conduct a markup on several trade bills.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, September 11, 1997, at 10 a.m. to hold a hearing.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. LOTT. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee Special Investigation to meet on Thursday, September 11, at 10 a.m. for a hearing on campaign financing issues.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on confidentiality of medical information during the session of the Senate on Thursday, September 11, 1997, at 10 a.m.

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

SUBCOMMITTEE ON NATIONAL PARKS, HISTORIC PRESERVATION, AND RECREATION

Mr. LOTT. Mr. President, I ask unanimous consent that the Subcommittee on National Parks, Historic Preservation, and Recreation of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, September 11, for purposes of conducting a subcommittee hearing which is scheduled to begin at 2 p.m. The purpose of this oversight hearing is to receive testimony reviewing the Commemorative Works Act and the administrative and public process involved in the site selection of the World War II Memorial and the recently announced Air Force Memorial.

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

ADDITIONAL STATEMENTS

IN RECOGNITION OF ETTA MOTEN BARNETT'S 96TH BIRTHDAY

● Ms. MOSELEY-BRAUN. Mr. President, I would like to extend my heartfelt congratulations to Etta Moten Barnett on the occasion of her recent 96th birthday. Mrs. Barnett is a remarkable woman who has lived a life of great artistic and civic achievement.

By the time she was 30, Mrs. Barnett was married, had three children, divorced, and returned to school. After receiving a fine arts degree in voice from the University of Kansas, Mrs. Barnett moved to New York City to begin an illustrious career in show business that would take her around the world and before millions of people.

Mrs. Barnett distinguished herself with her incredible singing ability, both on the stage and on the silver screen. Her theatrical accomplishments include Broadway performances of ''Porgy and Bess'', ''Fast and Furious'', ''Sugar Hill'', ''Zombie'', and ''Lysistrata''. George Gershwin wrote the role of Bess with Mrs. Barnett in mind, and she performed in the starring role in the first revival of ''Porgy and Bess'' on Broadway in 1942.

Mrs. Barnett's film credits include ''The Gold Diggers'', ''Flying Down to Rio'', and ''My Forgotten Man''. Her stirring performance in The ''Carioca'' earned the film an Oscar nomination for best song. After seeing her in ''My Forgotten Man'', President Franklin Roosevelt invited Mrs. Barnett to personally sing for him, and thus, she became the first African-American woman ever to perform at the White House.

Although Mrs. Barnett stopped performing in 1952, her contributions to American society continued. Along with husband Claude Barnett, the founding director of the Associated Negro Press, Mrs. Barnett took an active interest in issues affecting people of color around the world and became a champion of equal rights for all people.

As a founding member of the North Shore Chapter of the Links, Inc. in Chicago, Mrs. Barnett continues to give freely of herself to numerous cultural and civic organizations. Her commitment to improving the plight of women throughout the world was recognized when she was the first nongovernmental organization representative of the Links at the United Nations.

Etta Moten Barnett is truly an American legend. In honoring her 96th birthday, I join her family, friends, and colleagues in commending her for her outstanding accomplishments. Her talent on Broadway and on film has touched thousands of Americans, and her hard work, gracefulness, and civic-mindedness has inspired and set an example for thousands more.●

TRIBUTE TO THE HONORABLE ALBERT LEE SMITH, JR.

● Mr. SHELBY. Mr. President, I rise today in honor of The Honorable Albert Lee Smith, Jr., who died at age 65 on August 12, 1997, from injuries suffered in a tragic fall at his home. Mr. Smith was a friend, dedicated husband and father. He served with distinction in the U.S. House of Representatives during the 96th Congress on behalf of the people of Alabama's Sixth District.

Albert Lee Smith, Jr., grew up in Birmingham, AL and received his bachelor's degree from Auburn University. Always a leader, he served as an officer in the U.S. Navy, and was later awarded an honorary doctor of law degree from Samford University.

In 1956, Mr. Smith joined the Jefferson-Pilot Life Insurance Co. in Birmingham. For the next 41 years, Mr. SMITH had a distinguished career as a Chartered Life Underwriter. He served as president of the Birmingham Association of Life Underwriters and held several leadership positions in other professional organizations.

Albert Lee Smith, Jr. was a true gentleman and conservative visionary. He was an extraordinary leader for the Alabama Republican Party. Active since 1962, Mr. Smith served as a

pollwatcher, precinct captain and vicechairman of the county party. At the time of his untimely passing, he was serving as a vice-chairman of the Alabama Republican Executive Committee. Further, Mr. Smith was a delegate to the 1968, 1972, 1976, and 1984 Republican National Conventions.

Driven by his desire to help Alabamians, Albert Lee Smith, Jr., ran for Congress to work for lower taxes and a smaller, more efficient government for the American people. Among the first in Congress to do so, Congressman Smith demonstrated concern for the strength of American families as the sponsor of the Family Protection Act. As a member of the House Budget Committee and the Committee on Veteran's Affairs, he supported tax cuts and a strong national defense.

Albert Lee Smith, Jr., knew the importance of restoring America's financial and spiritual health for our children and grandchildren. For his dedicated service, Congressman Smith was honored by several important awards: The Taxpayers Best Friend Award from the National Taxpayers' Union; the Leadership Award from the American Security Council; and the Golden Bulldog Award from the Watchdog of the Treasury, among others.

Congressman Smith was a public servant of the first order. The Alabama Republican Party nominated him as its candidate for the U.S. Senate in 1984. Following his departure from the House of Representatives, President Ronald Reagan named him in 1985 to the Federal Council on Aging, an appointment subsequently confirmed by the U.S. Senate.

An exemplary citizen, leader and role model, Congressman Smith served as a board member of the Birmingham Campus Crusade for Christ and was a member of the Kiwanis Club and the Metropolitan Board of the YMCA. Mr. Smith served as a deacon at the First Baptist Church in Birmingham and was elected by the Southern Baptist Convention to the Baptist Joint Committee on Public Affairs. As a husband, father and friend, Albert Lee Smith, Jr., was a compassionate and thoughtful human being.

My prayers go out to Albert's wife, Eunie Walldorf Smith, their children, Karen, Smith, Albert Smith, and Meg Wallace, and their family and friends. The Honorable Albert Lee Smith's lifelong dedication to community and country made our world a better place.●

NATIONAL WILDLIFE REFUGE SYSTEM ADMINISTRATION ACT OF 1996

● Mr. GRAHAM. Mr. Chairman, this bill establishes wildlife observation, hunting, fishing, and environmental education as the priority public uses of the refuge system. We have found in the State of Florida that even wildlife observation can become incompatible if not carefully regulated and managed.

For example, at Crystal River National Wildlife Refuge, visitors enjoy observing the manatees that this refuge was established to protect. The favored way of observing the animals is by swimming with them in the refuge waters. A few years ago, the Fish and Wildlife Service discovered that so many people were engaging in this activity that many of the manatees were leaving the refuge that was designed for their protection. The agency determined that this form of wildlife observation was occurring at levels that were incompatible with the purpose of the refuge and had to establish certain limits on when and where people could engage in this activity and how many could do so at one time.

Am I correct that even those so-called wildlife-dependent activities that are considered priority public uses in the bill must be found to be compatible with the purposes of the refuges and the mission of the system? And, that as a part of this determination, the Fish and Wildlife Service must consider whether there are adequate funds available to administer the use in a manner that is compatible?

Mr. CHAFEE. That is correct. Even though we are designating wildlife observation, hunting, fishing, and environmental education as priority public uses the bill requires each of these to pass the compatibility test. Even these uses have occasionally been determined to be incompatible on a number of refuges in the past and may be so in the future.

Mr. GRAHAM. Mr. Chairman, this bill—for the first time in law—would establish a definition for the term ''compatible.'' This is one of the single most important aspects of this legislation. Too often in the past, activities have been allowed on refuges that have harmed the fish and wildlife and habitats that these areas were designed to protect. There has been some concern that the definition used in the bill is overly vague. The bill defines a compatible use as one that will not ''materially interfere with or detract from the purpose of a refuge or the mission of the Refuge System.''

The House committee report on this bill further clarified that what this language means is that a use is compatible if it will not have a tangible adverse impact on refuge purposes. Is it also your understanding that this is what is meant by this definition?

Mr. CHAFEE. Yes. That is the correct interpretation of what is meant by this definition. A compatible use is one that will not have a tangible adverse impact on refuge purposes.

Mr. GRAHAM. Mr. Chairman, the third part of our amendment concerns the issuance of permits for such uses as electric utility rights-of-way that may be of longer than 10 years in duration.

The underlying bill requires that all non-wildlife-dependent uses be reevaluated every 10 years to ensure they are still compatible. The language of our amendment directs that for uses that are authorized for more than 10 years, such as utility right-of-way the Fish and Wildlife Service will evaluate compliance with the original terms and conditions of the permit and not the authorization of the right-of-way itself.

Mr. CHAFEE. Your understanding is correct. This amendment is intended to address the concerns of those with permits for more permanent or semipermanent physical structures such as powerlines.

Mr. GRAHAM. Mr. Chairman, some have pointed out correctly that, in the case of unforeseen changes in circumstances, it may occasionally be necessary to adjust a use to ensure that it remains compatible. My understanding is that utility companies have been willing and able to make minor adjustments to their facilities to ensure that they remain compatible.

Mr. Chairman, am I correct to understand that this amendment will still allow the flexibility to make such adjustments to facilities that have been authorized for more than 10 years in order to ensure that they remain compatible?

Mr. CHAFEE. That is correct.●

APPLAUDING LITHUANIA AND POLAND FOR HOSTING THE VILNIUS CONFERENCE

● Mr. DURBIN. Mr. President, I rise today to applaud Lithuania and Poland for their efforts in promoting peace and security in Central and Eastern Europe. This past weekend, Lithuania and Poland hosted an international conference in Vilnius on the subject of coexistence between nations and good neighborly relations. The conference brought together the leaders of 11 countries—Lithuania, Poland, Latvia, Estonia, Ukraine, Hungary, the Czech Republic, Romania, Belarus, Finland, and Russia—to discuss practical ways to promoting peaceful relations among their peoples. Lithuania and Poland pointed to improvements in their own relationship as a model for other nations. I also commend President Clinton for recognizing the leadership of Lithuania and Poland on this issue, by sending the Deputy Assistant Secretary of State for European Affairs as the United States representative to the Vilnius conference.

In convening this conference, Lithuania and Poland stressed the essential connections between democratic institutions, free markets, and peace. Democratic institutions are founded on the values of tolerance and respect for individual and minority rights; values which promote good relations between neighbors. Free markets are providing the people of that region with unprecedented opportunities to improve their lives in material terms, giving them an incentive to put aside old animosities and differences. And of course, peace provides an environment in which democratic institutions and free markets can flourish. The work of the Vilnius conference advances major

American foreign policy goals: security in the North Atlantic region and the expansion of democratic institutions and free markets.

Lithuania and Poland are meeting their responsibilities in the new Europe. They are leading the way in forging a new pattern of politics in Europe, as Secretary of State Albright called for during her trip to Lithuania last July. During her visit, Secretary Albright stated that any new members of NATO must be producers of security, not merely consumers. Mr. President, by reaching out to their neighbors—including Russia—Lithuania and Poland are showing themselves to be producers of security. They are, in short, excellent candidates for NATO membership. We in the Senate should do all we can to encourage Lithuania and Poland in their efforts to promote security in the North Atlantic region and to support their membership in NATO.●

THE 50TH ANNIVERSARY OF THE U.S. AIR FORCE

● Mr. LEVIN. Mr. President, I rise today to honor the U.S. Air Force on its 50th anniversary, which will be celebrated across the country on September 18, 1997.

On July 26, 1947, the National Security Act was signed into law by President Truman. This act established the U.S. Air Force as a separate branch of our Nation's Armed Forces. On September 18, 1947, W. Stuart Symington was sworn in as the first Secretary of the Air Force. Eight days later, Gen. Carl A. Spaatz became the Air Force's first Chief of Staff.

While 1947 marked the beginning of the Air Force as we know it today, the U.S. official involvement with the military applications of flight actually started 40 years earlier in 1907. On August 1 of that year—just 3 years after the Wright Brothers' historic first manned flight—the Aeronautical Division of the U.S. Army Signal Corps was established. This was the forerunner of today's Air Force. The Aeronautical Division's mission was to ''take charge of all matters pertaining to military ballooning, air machines, and all kindred subjects.'' It is from this initial mandate that the Air Force has evolved into the indispensable force which today provides the United States with ''Global Reach, Global Power.''

With its founding in 1947, the Air Force became an equal partner with the Army, Navy, and Marine Corps in our Nation's Armed Forces. It did not take long for the Air Force to make history. Within 2 weeks of its creation, the Air Force hit the first of many impressive milestones. On October 14, 1947, a young Air Force captain by the name of Chuck Yeager courageously piloted the X–1 on the first supersonic flight.

Beginning in June 1948, it was the Air Force that was called upon to take the lead in the Berlin Airlift. Dubbed Operation Vittles and over the course of the next 15 months, the Anglo-American airlift delivered a total of 2.3 million tons of food, fuel, and supplies to sustain the people of that beleaguered city.

The theme of this 50th anniversary year for the Air Force—''Golden Legacy—Boundless Future''—is very appropriate because facing challenges has been the hallmark of the Air Force. They have always aimed high. The Air Force has achieved countless numbers of aviation firsts that are the envy of the aeronautical world. Lesser known actions, though, are also an important part of the Air Force's golden legacy and should also be celebrated. For instance, on July 1, 1949, the Air Force became the first service to announce an end to racial segregation in its ranks.

The greatest strength in all of the military services has always been in its members themselves. Without any doubt and question, Gens. Hap Arnold and Jimmie Doolittle and Sen. Ira Eaker are great Air Force legends in their own right. So too though is Lt. Col. John Paul Stapp, a Air Force flight surgeon who in 1954 rode a rocket sled to 632 mph and then decelerated to zero in 125 seconds. He survived more than 35 times the force of gravity in order to determine if a pilot could eject from an airplane at supersonic speed and live. We should also remember Col. Robin Olds who, on January 2, 1967, became the first and only U.S. Air Force ace with 12 victories in World War II and 4 victories in Vietnam.

Over the past 50 years the men and women of the Air Force have served with honor and distinction in the major conflicts of Korea, Vietnam, and in the Persian Gulf. They have been the faithful stewards of two-thirds of America's arsenal of nuclear weapons. They have kept the peace deep below the Earth in missile silos and high in the heavens in reconnaissance aircraft.

The Air Force truly does have a golden legacy that we should all take time to reflect upon and honor. I am confident that the Air Force's rich history is the foundation of its boundless future. Regardless of any future threat our Nation may face, the Air Force will meet the challenge just as they always have.

I know my Senate colleagues join me in celebrating the 50th anniversary of the United States Air Force.●

CONDEMNATION OF BOMBING IN JERUSALEM

Mr. GORTON. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of Senate Concurrent Resolution 50 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 50) condemning in the strongest possible terms the bombing in Jerusalem on September 4, 1997.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. GORTON. Mr. President, Senator HUTCHINSON has two amendments at the desk which amend the resolution and the preamble.

I ask unanimous consent that the amendment to the resolution be agreed to, the resolution, as amended, be agreed to, the amendment to the preamble be agreed to, and the preamble, as amended, be agreed to.

I further ask unanimous consent that the motions to reconsider be laid upon the table and any statements relating to the resolution be printed in the RECORD.

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

The amendment (No. 1133) was agreed to, as follows:

On page 3, beginning on line 6, strike out ''should provide'' and all that follows through ''it has fulfilled'' and insert in lieu thereof ''will only provide monetary or other assistance to the Palestinian Authority once it has fulfilled''.

On page 3, strike out lines 16 and 17.

On page 3, line 18, strike out ''(E)'' and insert in lieu thereof ''(D)''.

On page 3, line 21, strike out ''(F)'' and insert in lieu thereof ''(E)''.

On page 4, line 1, strike out ''(G)'' and insert in lieu thereof ''(F)''.

On page 4, strike out lines 3 through 5.

On page 4, line 6, strike out ''(I)'' and insert in lieu thereof ''(G)''.

On page 4, line 9, strike out ''(J)'' and insert in lieu thereof ''(H)''.

On page 4, line 15, strike out ''(K) taking affirmative steps to reduce the size of the Palestinian police force,'' and insert in lieu thereof ''(I) taking affirmative steps to ensure that the size of the Palestinian police force is''.

The amendment to the preamble was agreed to, as follows:

In the first clause, strike out ''8 people'' and insert in lieu thereof ''7 people''.

In the sixth clause, strike out ''a list of 150'' and insert in lieu thereof ''a long list of''.

In the eighth clause, strike out ''over 260 Israelis'' and insert in lieu thereof ''more than 100 Israelis''.

The concurrent resolution, as amended, was agreed to.

The preamble, as amended, was agreed to.

The concurrent resolution (S. Con. Res. 50), as amended, and its preamble, as amended, read as follows:

S. CON. RES. 50

Whereas on September 4, 1997, 3 bombs exploded in Jerusalem on Ben Yehuda Street, killing at least 7 people and injuring more than 165 others;

Whereas HAMAS, a terrorist organization, has a ''military wing'' which has claimed responsibility for this cowardly act;

Whereas Yasser Arafat, Chairman of the Palestinian Authority, has made statements in which he said ''HAMAS, even its military wing, is a patriotic movement.'';

Whereas on August 20, 1997, Chairman Arafat publicly embraced the leader of HAMAS, Abdel Aziz al-Rantisi;

Whereas Yasser Arafat has recently ordered the release of several HAMAS terrorists being held in Palestinian Authority jails, including Nabil Sharihi, who is suspected in a bombing that killed Alisa Flatow, a American citizen;

Whereas Israel has recently given Yasser Arafat a long list of suspected terrorists who are presently residing in Palestinian-controlled territory;

Whereas Yasser Arafat has made public statements in which he vowed not to ''bow down'' to Israeli requests that he arrest suspected terrorists;

Whereas since the beginning of the Oslo peace process, more than 100 Israelis have been killed, and hundreds more have been injured, far more than a similar period before the peace process began; and

Whereas in violation of the Oslo Accords, the Palestinian Authority has withheld full security cooperation with the State of Israel, which may have made this attack more likely: Now, therefore be it

Resolved by the Senate (the House of Representative concurring), That Congress—

(1) condemns in the strongest possible terms this latest bombing and those responsible for encouraging or inciting such cowardly acts;

(2) expresses its deepest condolences to the families of the victims of this latest bombing and expresses its solidarity with the people of the State of Israel in this tragic time;

(3) reaffirms that the United States should fully cooperate with the State of Israel in helping to stem the tide of terrorism, which has threatened the Oslo peace process and the stability of this vital region; and

(4) affirms that the United States will only provide monetary or other assistance to the Palestinian Authority once it has fulfilled its obligations under the Oslo Accords, including—

(2) taking affirmative steps to arrest and prosecute suspected terrorists;

(B) resuming full security and intelligence cooperation with the State of Israel;

(C) taking affirmative steps to confiscate all unlicensed weapons and explosives;

(D) prohibiting participation in the Palestinian security services of individuals suspected of committing terrorist acts;

(E) ceasing all anti-Israeli rhetoric, including statements which refer to terrorist groups as ''patriotic'', statements which praise terrorists or terrorist leaders, and statements encouraging a ''battle'' or ''juhad'' against Israel;

(F) cooperating with Israel in the transfer of suspected terrorists to Israel to stand trial;

(G) ceasing the use of maps depicting ''Palestine'' as encompassing the entire State of Israel;

(H) completing the process of amending the covenant of the Palestinian Liberation Organization, including the recession of those specific articles which call for armed struggle to liberate ''Palestine'' or question their legitimacy of Zionism or the State of Israel; and

(I) taking affirmative steps to ensure that the size of the Palestinian police force is in accordance with the limits set forth in the Oslo and subsequent accords.

ORDERS FOR FRIDAY, SEPTEMBER 12, 1997

Mr. GORTON. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10 a.m. on Friday, September 12.

I further ask unanimous consent that on Friday the Senate immediately begin a period of morning business, with Senators permitted to speak for up to 10 minutes each.

I further ask unanimous consent that following morning business, the Senate adjourn over until Monday, September 15, and immediately following the prayer, the routine requests through the morning hour be granted and the Senate immediately resume consideration of H.R. 2107, the Interior appropriations bill.

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

PROGRAM

Mr. GORTON. For the information of all Members, the Senate will be in session for the transaction of morning business only tomorrow. No rollcall votes will occur during Friday's session of the Senate.

On Monday, the Senate will resume consideration of the Interior appropriations bill. The majority leader intends that the Senate conclude debate on this legislation by Tuesday. Therefore, Members are encouraged to contact the managers of the bill to schedule floor action on any possible amendments.

As Members are aware, this is the next to the last appropriations bill remaining for Senate consideration. In other words, the Senate has concluded action on 11 of the 13 appropriations bills. Therefore, Members' cooperation is appreciated in the scheduling of floor action as we attempt to complete action on both the Interior appropriations bill and the District of Columbia appropriations bill next week.

The Senate will be in session on Friday for morning business only. There will be no rollcall votes on Friday or Monday. Therefore, the next rollcall vote will be a cloture vote on S. 830, the FDA reform bill, occurring on Tuesday at 10 a.m. Under rule XXII, all first-degree amendments to S. 830 must be filed by 1 p.m. on Monday.

I thank my colleagues for their attention.

ORDER FOR ADJOURNMENT

Mr. GORTON. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent the Senate stand in adjournment under the previous order following the remarks of Senator SNOWE.

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

Under the previous order, the Senator from Maine is recognized.

ARMY REPORTS ON SEXUAL HARASSMENT

Ms. SNOWE. Mr. President, the American people watched with horror and disgust as the incidents of sexual misconduct at Aberdeen Proving Ground unfolded last fall. As details emerged at Aberdeen and other Army training facilities, the extent and seriousness of this problem became increasingly and terribly evident.

As a result of these events, the Secretary of the Army, Togo West, commissioned his senior review panel and tasked the Army Inspector General to conduct two separate widescale investigations of sexual harassment within the Army. Today, the Secretary released the results of these two studies.

Both reports delivered a scathing indictment of the climate and lack of leadership that permits sexual harassment to permeate all levels of the Army.

Mr. President, in each case involving leaders and trainees, the sexual misconduct which occurred at Aberdeen and elsewhere within the Army was a result of abuse of authority. The key to solving this problem is to eliminate the systemic conditions which created the atmosphere which allowed these outrageous and egregious instances of abuse to occur. The Army's equal opportunity system, which is supposed to provide a safety valve when all else fails, is itself a complete and utter failure—devoid of support by the chain of command and lacking credibility by those it seeks to protect.

The stark reality is that only 5 percent of the 9,000 people surveyed, as part of the Army's own review, said they would use the formal complaint mechanism provided by the equal opportunity system.

Mr. President, what kind of program engenders confidence in only 5 percent of the population? The answer is simple. One that is badly broken, and in desperate need of repair.

The reports released today found that sexual harassment exists throughout the Army, crossing gender, rank, and racial lines. They also found that the Army leadership is the critical factor in creating, maintaining, and enforcing an environment of respect and dignity, yet too many leaders have failed to gain the trust of their soldiers.

As a member of the Armed Services Committee, I have taken a long hard look at sexual harassment throughout the military. I have made visits to Fort Jackson, SC, Aberdeen Proving Ground, MD, and Camp Lejeune, NC. As part of these visits, I asked the Army about the quality of its sexual harassment training designed to sensitize both instructors and trainees to the problems of sexual harassment. Army officials assured me that the training was adequate, but today's shocking report reveals otherwise.

The Inspector General's survey reported that professionals and leaders who are expected to deal with soldiers reporting incidents of inappropriate sexual behavior need to be trained and qualified, indicating that is obviously not the case today.

Army officials must act swiftly and aggressively to change the climate that has allowed sexual harassment to permeate the Army. These same officials must also vastly improve the education provided to both instructors and

trainees to ensure beyond the shadow of a doubt that all parties understand their responsibilities with regard to sexual harassment. The equal opportunity system has clearly failed and must be repaired so that victims of sexual harassment will have confidence that Army leadership will act on valid complaints and actively seek to eliminate sexual harassment.

Today's acknowledgment by the Army is a first step that identifies the alarming scope of this problem. Now, it is incumbent upon the military and on our civilian leaders to put an end to sexual harassment once and for all.

I will again meet with Army officials tomorrow and will continue to aggressively pursue changes to eliminate the poisonous environment that allows such pervasive levels of sexual harassment to undermine the good order and discipline of the United States Army, so crucial to our national security.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

The PRESIDING OFFICER. The Senate stands adjourned under the previous order.

Thereupon, the Senate, at 6:14 p.m, adjourned until Friday, September 12, 1997, at 10 a.m.

CONFIRMATIONS

Executive Nominations Confirmed by the Senate September 11, 1997:

CORPORATION FOR PUBLIC BROADCASTING

KATHERINE MILNER ANDERSON, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR PUBLIC BROADCASTING FOR A TERM EXPIRING JANUARY 31, 2000.

HEIDI H. SCHULMAN, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR PUBLIC BROADCASTING FOR A TERM EXPIRING JANUARY 31, 2002.

THE JUDICIARY

JOSEPH F. BATAILLON, OF NEBRASKA, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF NEBRASKA.

CHRISTOPHER DRONEY, OF CONNECTICUT, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF CONNECTICUT.

JANET C. HALL, OF CONNECTICUT, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF CONNECTICUT.

DEPARTMENT OF JUSTICE

SHARON J. ZEALEY, OF OHIO, TO BE U.S. ATTORNEY FOR THE SOUTHERN DISTRICT OF OHIO FOR THE TERM OF 4 YEARS.

JAMES ALLAN HURD, JR., OF THE VIRGIN ISLANDS, TO BE U.S. ATTORNEY FOR THE DISTRICT OF THE VIRGIN ISLANDS FOR THE TERM OF 4 YEARS.