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Senate

The Senate met at 10 a.m. and was called to order by the Honorable TIM HUTCHINSON, a Senator from the State of Arkansas.

PRAYER

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

Gracious God, You have called us to be creative thinkers. You endowed us with a thinking brain so we could think Your thoughts after You. That's awesome, Father, You are omniscient. You know everything. You also know what is best for our future as a Nation. This is Your land; we are Your people; we are a Nation under Your sovereignty. In response, we make Proverbs 16:3 the motto for this day, ''Commit Your works to the Lord and Your thoughts will be established.'' Throughout the day, we will intentionally submit the work of this Senate to You, seek Your guidance, and claim this promise for clarified convictions in keeping with Your will. A profound peace invades our souls as we say with the psalmist, ''I commit my way to the Lord and trust also in Him, and He shall bring it to pass * * * I rest in the Lord and wait patiently for Him.''—Psalm 37:5,7. Speak to our minds, Lord, we are listening. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. THURMOND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 16, 1998.

TO THE SENATE: Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TIM HUTCHINSON, a Senator from the State of Arkansas, to perform the duties of the Chair.

STROM THURMOND,
President Pro tempore.

Mr. HUTCHINSON thereupon assumed the chair as Acting President pro tempore.

Mr. COCHRAN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Mississippi.

SCHEDULE

Mr. COCHRAN. Mr. President, at the request of the majority leader, I am pleased to make the following announcement concerning the schedule of the Senate today.

This morning, the Senate will immediately resume consideration of the agriculture appropriations bill. It is expected that Senator GRASSLEY will offer an amendment which will be considered by the Senate. Following disposition of the Grassley amendment, it is hoped that Members will come to the floor to offer and debate any remaining amendments to the agriculture appropriations bill so that the Senate can complete action on this legislation by early afternoon.

Following disposition of the appropriations bill, the Senate may resume consideration of the VA-HUD appropriations bill or begin the legislative branch appropriations bill. The Senate may also consider any other legislative or executive items cleared for action.

Therefore, Senators should expect rollcall votes throughout the day and into the evening during today's session.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

The ACTING PRESIDENT pro tempore. The Senate will now resume S. 2159, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2159) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1999, and for other purposes.

The Senate resumed consideration of the bill.

Mr. WELLSTONE addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota.

PRIVILEGE OF THE FLOOR

Mr. WELLSTONE. Mr. President, I ask unanimous consent that Christy May Carlson, an intern in my office, be allowed on the floor during today's debate on the legislation.

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

Mr. GRASSLEY addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Iowa.

AMENDMENT NO. 3172

(Purpose: To express the sense of the Senate concerning appropriate actions to be taken to alleviate the economic effect of low commodity prices)

Mr. GRASSLEY. Mr. President, I send an amendment to the desk.

The ACTING PRESIDENT pro tempore. The clerk will report.

The Senator from Iowa (Mr. GRASSLEY), for himself, and Mr. ROBERTS, Mr. LUGAR, Mr. HAGEL, Mr. BROWNBACK, and Mr. BOND, proposes an amendment numbered 3172.

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

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

The amendment is as follows:

On page 67, after line 23, add the following:

SEC. 7__. SENSE OF THE SENATE CONCERNING APPROPRIATE ACTIONS TO BE TAKEN TO ALLEVIATE THE ECONOMIC EFFECT OF LOW COMMODITY PRICES.

It is the sense of the Senate that—

(1) Congress should pass and the President should sign S. 1269, which would reauthorize fast-track trading authority for the President;

(2) Congress should pass and the President should sign S. 2078, the Farm and Ranch Risk

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

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Management Act, which would allow farmers and ranchers to better prepare for fluctuations in the agricultural economy;

(3) the House of Representatives should follow the Senate and provide full funding for the International Monetary Fund;

(4) Congress should pass and the President should sign sanctions reform legislation so that the agricultural economy of the United States is not harmed by sanctions on foreign trade;

(5) Congress should uphold the presidential waiver of the Jackson-Vanik amendment to the 1974 Trade Act providing normal trade relations status for China and continue to pursue normal trade relations with China;

(6) the House and Senate should continue to pursue a package of capital gains and estate tax reforms;

(7) the President should pursue stronger oversight on all international trade agreements affecting agriculture and commerce dispute settlement procedures when countries are found to be violating such trade agreements;

(8) the President should sign legislation providing full deductibility of health care insurance for self-employed individuals; and

(9) the Congress and the Administration should pursue efforts to reduce regulations on farmers. The President should use the administrative tools available to him to use Commodity Credit Corporation and unused Export Enhancement Program funds for humanitarian assistance.

Mr. GRASSLEY. Mr. President, this is a sense-of-the-Senate resolution regarding the problems that our farmers are experiencing and what we can do to ease the burden of uncertainty and risk that every farmer faces.

As those of us from States with major ag economies know, and as my friends on the other side of the aisle have discussed, farmers across the Nation have legitimate concerns about the prices they receive for their products. I know, as do my colleagues who represent ag States, that commodity prices are not good.

Making that problem worse, in Iowa, for example we are looking at the possibility of a bumper crop and we still have nearly 40 percent of last year's grain in storage, which obviously, will work to keep prices low.

I am not here to say everything is just fine with the ag economy right now. But I am here to say that in addressing these problems we must take our marching orders from farmers and the folks who represent farm interests such as Farm Bureau, the corn growers and the soybean producers, among others. Opening up the 1996 farm bill, as some advocate, is not the way to legitimately address these very real concerns. And it is not what these very respected farm organizations advocate, and I must say, it is not what farmers in my State have been telling me to do. Nonetheless, we need to do something to alleviate the worries our farmers face. Earlier this year, representatives of all the major agriculture organizations came to Capitol Hill to discuss the problems the ag industry is facing. Frankly, opening up Freedom to Farm did not make their list of priorities. In fact, this list consisted almost entirely of initiatives to support and enhance trade opportunities. Farmers tell me the most important thing Congress can do to ensure the long-term prosperity of the family farm is to open and expand foreign markets for their products. That's why we must give our farmers the opportunity to compete for every sale, in every market in the world.

In fact, the message that we were sending to the rest of the world when we passed Freedom to Farm is that we intend to compete for every market anywhere in the world and we are going to be a sure supplier in that market.

We in the Senate ought not be telling farmers what they should want and need. We should be listening to farmers and doing what they tell us is important. That is what my resolution is all about. My resolution is nothing less than a commitment to the American farmer that we have heard you and we share the principles that you support and we will work with you to make those principles a permanent part of farm policy.

It is a reiteration of the principles of Freedom to Farm. But it is 3 years later a reiteration of what we ought to be doing and an admission that in some places we have come up short as far as the marketing opportunities we promised that they should produce and that there will be markets for that product.

And as we know, at least in my part of the country, we export about 40 percent of our production, so farmers have to have open markets. They must be overseas. Anybody who wants to price the United States out of the world market is saying that we ought to shut down 40 percent of our productive capability. That is not only intolerable for farmers, but it is economically disadvantageous to small business people of America who depend upon the business that farmers bring to them, both in processing of our agriculture products as well as inputs in agriculture.

So I do not pretend that there is anything new here. But I do intend to carry out the principles of Freedom to Farm, which is dependent upon market-opening opportunities overseas. There is a crisis in trade policy right now and we need to focus more on it. And some of that crisis is politically oriented. There is not enough activity in this town on market promotion and on setting a political tone that the United States will continue to be a leader in market-opening negotiations around the world, which we have been for the last 50 years, and it is an expression of all of these things coming together, that we have to have more of an emphasis on trade opportunities.

So this Sense-of-the-Senate resolution states that we in Congress should act on a variety of measures that have been endorsed by agriculture groups as providing the best hope for farmers across the country for sustained economic growth and opportunity. These measures include fast-track negotiating authority for the President, legislation that I introduced establishing farm and ranch savings accounts, sanctions reform legislation, normal trading status with China, stronger oversight on international trade agreements affecting agriculture, additional estate and capital gains tax reform, full deductibility of health care insurance for self-employed individuals, reducing the regulation on farmers, and finally using the CCC and the EEP funds for food aid.

Mr. President, these are reforms that the leaders of the farm groups we met with have asked for. Many of these items were also promised to farmers when we passed the 1996 farm bill. It is time for Congress to live up to these promises.

We have heard today and in the days past in the debate on this bill about the serious problems facing American farmers in the northern plains States, particularly the Dakotas. So I met with North Dakota Governor Ed Schafer yesterday morning, and he told me about the serious circumstances in which his farmers find themselves. But he also told me emphatically that reopening Freedom to Farm would be a tremendous disservice to his constituents; that doing so would not give his people the help they need. It is time that we show our solidarity with the American farmer and pledge to give these hard-working men and women fundamental, long-term assistance that they count on from year to year rather than so-called emergency measures.

I have lived and worked on a family farm all of my life. My son operates our family farm. I know that farmers are independent, and I know they want as little Government interference in their business as possible. The initiatives listed in my resolution will help ensure that independence. It will help make sure that the promises of Freedom to Farm, that the farmer was going to be able to operate according to the marketplace and not according to the dictates of bureaucrats in Washington, DC, are adhered to.

The 1996 farm bill took positive and necessary steps to bring this about for the American farmer. Some in this body would reverse that progress. Let's show that we really listen to farmers' concerns and put the Senate on record as supporting our farmers in the initiatives they have asked. I strongly urge a ''yes'' vote on this legislation. It is a sense-of-the-Senate resolution. It does not change any policy, but it reaffirms what we did 3 years ago. It acknowledges the problems that come from the Southeast Asian economic situation—less exports going to that part of the world and a deteriorating income situation because of that.

Now, some people might say, well, what is different than 2 days ago or just yesterday when there were some negative votes for some help for the American farmer offered by people on the other side of the aisle? Well, the difference is this. Those programs would have changed Freedom to Farm. Those programs would have been short

term rather than long term. Those programs would not have been budget neutral. Keeping the budget balanced to keep interest rates low for American farmers is very, very important.

But what has also happened is very bad signals coming from the White House. Now, let me emphasize—very bad signals coming from the White House and coming within the last 24 hours, and so this was not a part of the political environment when we were talking about farm legislation yesterday and the day before. The White House is sending very clear signals through the business community of America that they do not want fast-track trading authority for the President brought up this year. They do not want to vote on it.

So we are hearing from the White House, for the first time, that the United States should withdraw from leadership in world trade as a matter of fact because of the absence of policy we have had, because we have not had fast-track negotiating authority for the last 4 years. But now there is a signal sent that nothing should be done about fast track.

To this point, the administration kept telling us we should be pushing for fast-track trading authority because this President wants it, and also because it has been the tradition of this country since World War II to lead in this area. The administration sent signals, both through the legislation and the activity of the White House, that the president wants to continue to get this authority, to continue to lead.

But now I hear there are meetings going on at the White House with the business community where the administration is sending a signal that, no, now is not the time for fast track. Well, this is the first time in 50 years that now is not the time for the President of the United States, Republican or Democrat, to be a leader in breaking down barriers to free trade so that our farmers can export and be prosperous because of it.

Now, when we are in this environment, where the administration is sending this signal that they do not want fast-track trading authority, then it is time for us to reiterate Congress' stand, which has been the stand of this Congress since World War II, that we should be a leader in marketing opportunities for our farmers, for our businesses, and for our services in America.

It is a sad day to hear, particularly for those involved with us in the Senate who are leaders in international trade, that we are not getting the support from the White House that we need to pass fast track. It does not send a very good signal to the people we have been working with around the world for the last 50 years, looking to the United States for leadership, that the United States doesn't want to lead. We are saying to the rest of the world: You lead. We are saying to the rest of the world: We don't see that it is necessary for us to be at the table. We don't think it is necessary for the President of the United States to be at the table to protect our farmers, to be at the table to protect our business interests, to be at the table to protect our producers that want to export.

This is an intolerable situation. If we do not reverse this policy, the legacy of this administration is going to be that the United States has withdrawn from world leadership in trade barrier reduction. I don't think that is the legacy this President wants. I don't think that is a very good legacy for this country as we go into the 21st century.

What is so important? It is not just the economic opportunities we lose, but commerce breaks down barriers between people. Commerce promotes peace. Commerce is going to expand the world economic pie for a growing population so we have more for more people rather than less for more people, not only from the standpoint of the quality of their life but from the standpoint of their ability to just survive—just survive. When we have a growing economic pie, we are going to have more political stability in the world and we are going to promote the process of world peace.

That is what is at jeopardy when a President of the United States is sending a signal—or even his staff is sending a signal—to the business community of America: Forget fast track.

I yield the floor.

Mr. WELLSTONE addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, my colleague from Kansas asked whether he might speak, and then I know the Chair wants to speak briefly. I will be pleased to defer to my colleague. I ask unanimous consent that I then be allowed to follow those two Senators.

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

The Senator from Kansas.

Mr. ROBERTS. Mr. President, I especially thank my colleague from Minnesota. I know he will have some important things to say, too.

Mr. President, I rise today as a cosponsor of the Grassley amendment. While this vote is nonbinding, as the Senator has said, I believe it does give the Senate the opportunity to make a very important statement on our commitment to our farmers and ranchers. We have had a rather spirited and I think a rather good debate in these past few days in regard to the many challenges that face farm country. I think this amendment is very clear. It simply lays out the issues Congress must address before we finish this session. Time is certainly drawing near. The time for action is now.

None of these issues, as the distinguished Senator from Iowa has pointed out, is more important than fast-track trade negotiating authority. Senator GRASSLEY did actually consider offering the fast track as an amendment to this bill, but obviously, due to the need to complete this bill, he has decided not to offer the amendment. So we have a sense of the Senate, if you will, that this is our priority action. That does not mean we should not come back to the issue as of this session, and that is the plan.

Before the Senator leaves the floor, let me point out, I do not know anybody in this Senate who has been a more distinguished leader in behalf of agriculture than the Senator from Iowa. There is an expression in farm country that you need to sit on the wagon to be able to listen to farmers. CHUCK GRASSLEY is the personification of that. There isn't anybody who speaks more in concert with the corn producer of Iowa or the hog producer of Iowa or livestock producer or any other farmer in Iowa, and I think that is reflective of his position of leadership in the Senate and all throughout the country.

As a matter of fact, this sense-of-the-Senate resolution mirrors a letter sent to the President, to the Secretary of State, the Secretary of Agriculture, to the distinguished Democratic leader, to our leader. This is the letter I referred to in my remarks when we had the debate on the Daschle amendment. It was sent, as I have said, to the President, the Secretary of State, to our Special Trade Representative, the Secretary of Agriculture, everybody on the House Committee on Agriculture, the Senate Committee on Agriculture, Ways and Means.

The person who really paid attention to this was, in fact, the distinguished Senator from Iowa. He pretty much took what these farm organizations—and I might add, it is: the American Farm Bureau Federation, the American Soybean Association, the National Association of Wheat Growers, the National Barley Growers Association, the National Cattlemen's Beef Association, the National Corn Growers—obviously they would be here if Senator GRASSLEY did it—the National Cotton Council of America, the National Grain Sorghum Producers Association, National Grange, National Oilseed Processors Association, National Pork Producers Council, National Sunflower Association.

They had a meeting with Senator LOTT and 12 Senators, attended by Senator GRASSLEY. Not content with just saying, ''Here's the list of what we need to do,'' Senator GRASSLEY has come to the floor of the Senate and said, ''These are our marching orders. It's the sense of the Senate that we do these things.'' Consequently, he listened to agriculture. He followed the farm summit that the agriculture leaders of America had with Republican Senators, and this is bipartisan as well. So I certainly credit him in that regard.

I do have some concern about the President first saying, ''Yes, let's do this,'' and then, ''Perhaps, you know,

let's not.'' So, consequently, in that regard I am happy that both the distinguished majority leader of the Senate, Senator LOTT, and Speaker of the House NEWT GINGRICH, have indicated we will vote on fast track, and hopefully it can be combined with IMF funding, a Caribbean initiative, or the African trade bill. I cannot think of a more important message to say to our farmers or more important work that we should do prior to this session ending.

With that, I thank, again, the Senator from Minnesota, and I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I have suggested to the Democratic manager, on the other side, that this amendment ought to be accepted. But I understand that there are some Senators who have objections to certain provisions of the resolution.

My observation is that at the beginning of the debate on this bill there was a sense-of-the-Senate resolution, which we approved unanimously on a recorded vote, that talked about the plight of agriculture, the problems in production agriculture, the low prices in some commodities, disasters that occurred in some parts of the country. It is a very uneven situation in agriculture right now. But the serious problems are serious. There are serious problems that need the immediate attention, as that resolution said, of the Congress and the President. This resolution spells out what some of those specific things are that can be done by the Congress and the President to relieve problems in production agriculture and strengthen our agricultural economy.

So I applaud the Senator from Iowa for going further than the sense-of-the-Senate resolution in getting into the details of some specific ideas that he has for improving the plight of farmers and those involved in the agriculture sector. I intend to support the resolution. I recommend the Senate approve it. There will be some others who will have other ideas, and they are here on the floor to speak to them, but I suggest to Senators, if you do want to be heard on this resolution, you should come to the floor and express yourself on the resolution, because I expect we will vote on it—whether it is a voice vote or a record vote—and that could occur soon.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. ROBERTS). The Senator from Arkansas is recognized.

Mr. BUMPERS. I just want to echo the words of my chairman, Senator COCHRAN, and state, first of all, this is a sense-of-the-Senate resolution. So the world is not going to come to an end, no matter how strenuously somebody might object to a particular provision of the bill. I would have been willing—when I came on the floor, I discussed it with Senator COCHRAN—I would be willing to accept it and go to conference with it. It doesn't seem all that ominous to me. But there are some really strenuous objections on this side. So I suppose, as the chairman said, we are going to have to have a vote on it. I not only find nothing objectionable, I find a lot in it to commend.

I think it is an excellent, very thoughtfully crafted proposal, and I agree with every one of the items he has listed here. I understand, as I say, that there are strong feelings on the other side.

In conclusion, this is one of those things—I see my colleague from Arkansas seeking the floor, and I think I know which provision he dislikes intensely in it, and Senator BYRD, I think, has voiced objection to the fast-track provision. I wish we could adopt it on a voice vote. If we can't do that, why, then do something else. Maybe we can get Senator GRASSLEY on the floor and at least get a time agreement on this amendment. It is the kind of amendment that can just go on all day long and it is a sense-of-the-Senate resolution. We never will get the bill passed if we spend this much time on sense-of-the-Senate resolutions. We have a lot of work to do here. If we finish this bill today, we will be lucky, in my opinion.

In any event, Mr. President, I hope that people who want to speak on this bill will hurry to the floor and get said whatever they want to say, and we can get Senator GRASSLEY on the floor and maybe work out a time agreement so we have some definition of what the day in front of us is going to look like. I yield the floor.

Mr. HUTCHINSON addressed the Chair.

The PRESIDING OFFICER. The other distinguished Senator from Arkansas is recognized.

Mr. HUTCHINSON. I thank the Chair. Mr. President, before I raise my concerns about this sense-of-the-Senate resolution, I pay my respects and my thanks to the Senator from Iowa for his leadership and his advocacy for agriculture, as well as the Senator from Kansas, who is presiding at this time, for his many years of service to agriculture and service to our country as a proponent and advocate for the agriculture community. I think that the intent of the sense-of-the-Senate resolution is admirable. It has many very laudable provisions. Certainly, I am a proponent of fast track. We need to give the President fast-track authority. I regret that President Clinton has expressed his unwillingness to pursue that aggressively in the House of Representatives, and I applaud the Speaker of the House for scheduling a vote in September on fast-track authority.

I believe the votes are there to pass fast-track authority in the Senate, and I hope we have the opportunity to do that. I hope we have more than sense of the Senate. I hope we will, in fact, have the opportunity to give the President that negotiating authority, which I believe will be an important step in opening markets for the agriculture community. I am glad that we have a sense of the Senate that has that provision in it.

I also applaud the provisions regarding sanctions reform. I believe very strongly that we misuse the sanctions tool. Sanctions is not a policy; sanctions is a tool, and it is a tool that we should not abandon. We have only three great tools: one is military, one is economic, and one is diplomatic. We need all three of them, and it would be a mistake for us to make a wholesale abandonment of the use of sanctions in dealing with other nations. It would make the use of military force a greater likelihood, and that would be a mistake.

There is no doubt we need to reform sanctions laws in this country, and I am glad to be serving on the leader's bipartisan task force to bring about comprehensive reform of the sanctions laws. It is important, and the leader has said by September 1, we should try to produce comprehensive reform of the sanctions in this country. I don't know that we will make the September 1 deadline, but it is a mistake for us to prematurely begin to make those kinds of reforms incrementally. I think we should wait for a comprehensive approach to sanctions reform, but I am glad to support the sense of the Senate that advocates that we reform the sanctions.

My concern about this resolution, nonbinding though it is, is that there is a provision included that would put us on record in support of extending most-favored-nation status to China. Next week, the House of Representatives will begin what I think will be a heated and intense debate on whether we should, once again, provide most-favored-nation trading status to the People's Republic of China. For the U.S. Senate, 1 week before the House begins its debate, to have, in a sense of the Senate, one little provision that says, ''Yes, we should extend MFN and, in fact, extend MFN permanently to China,'' would be a great mistake. I regret that the authors of the sense-of-the-Senate resolution saw fit to include that one provision which I think, more than any other provision in this resolution, becomes controversial.

This week there was a headline in the Washington Post that said this: ''Chinese Resume Arrests.''

Mr. President, perhaps nothing is more prophetic or revealing about the lack of impact the President's recent trip will have on the future of democracy in China than this week's headlines announcing a multitude of new arrests of political dissidents in China.

Less than 1 week after the President of the United States ended his tour of China, Chinese police arrested 10 pro-democracy advocates in China. I will read the first paragraph in that Post article, dated July 12, Beijing:

Police detained 10 democracy advocates just one week after President Clinton ended a tour of China, during which he emphasized the benefits of freedom and the rule of law, and praised Chinese President Jiang Zemin as a man who could transform this nation into a modern democracy.

The detainees included two cofounders of the opposition China Democratic Party, who tried to register it on June 25, the day Clinton began his nine-day visit.

These people were arrested for one reason: They dared to start an opposition party to the Communist Party in China. For daring to say we will be an opposition voice, for daring to say we will dissent from the ruling political party in China, they were arrested.

I asked an advocate of MFN today, a Member of the House of Representatives who is a proponent of MFN, ''Sir, what would it take for you to vote against normal trading status with China? What would they have to do? What abuse would they have to perpetrate in order for you to cast a vote against MFN?''

There was a thoughtful response, and I think a cause for pause. I ask all those who say we need to adopt a sense-of-the-Senate resolution today advocating MFN for China to ask themselves the question: What would it take? Is it forced abortion? Apparently not. So a nation that continues to practice taking women who are 7, 8 and 9 months pregnant against their will forcibly to a labor camp, putting them in a cell and forcing them against their will to have an abortion, if that is not enough to deny normal trading status or MFN, what does it take?

China today continues to persecute religious minorities, whether they are Hindus, whether they are Buddhists or whether they are Evangelical Christians, they continue to incarcerate them, they continue to require registration, they continue to monitor the messages.

If religious persecution is not enough to deny MFN for China, what does it take? What would they have to do? China continues to proliferate weapons of mass destruction. In committee testimony this week, officials of this Government admitted they cannot guarantee that China is not today continuing to proliferate. So if the proliferation of missiles and weapons technology is not enough to deny MFN, what does it take? What would it require that we say no to giving them normal trading status?

For us to go on record in light of the ongoing abuses—what a thumb in the eye to the U.S. Senate and to the United States of America and to the President of this country, within 1 week of our President's visit, to round up those who dare to say, ''We would like to be an opposition political party,'' and who dare to call their political party the Democracy Party. They rounded them up and put them in jail. How ironic that the President would refer to, and I quote the President's words in his speech in China, what he called ''a steady breeze of freedom blowing through China.''

That gentle breeze has become a brittle wind chilling any hope for true freedom—freedom of speech, freedom of political expression, freedom of religion in this Communist nation.

So while there were dazzling pictures and eloquent rhetoric about human rights, the President's tour of China was full of missed opportunities and mistakes that are sure to have a much more detrimental impact on human rights in China in the long run than the benefit of any short-term afterglow.

I will not today itemize what I think were the missed opportunities during the President's trip to China. But there is one—there is one—certainty, that on the heels of that trip, the Chinese Government once again cracked down on those who would make the mildest of political dissent and seek to register as a new political party.

Any pretense that the government, the regime, that dominates China today is moving toward reform and democracy should have been dispelled by what they did this week. And for the U.S. Senate to say, we are going on record in favor of most-favored-nation status, in view of what they did, I think would be a great mistake.

I would welcome the opportunity for the sponsors of this amendment to simply take the MFN provision out of this sense of the Senate; and I would wholeheartedly support it. But I think it is a mistake for us to go on that kind of record in view of what China has done in the wake of the President's recent trip in which he spoke so eloquently for freedom and for democracy.

I add, to my colleagues in the Senate, that it was this week that the Communist government in China rebuked the U.S. Senate for our audacity in passing a resolution reaffirming our traditional support for Taiwan.

I believe the President made mistakes in his trip to China, and I could enumerate them. But the greatest mistake was this: pinning our hopes for democratic reform in China to this regime. And the laudatory comments made about Jiang Zemin and the expression of the belief that he would be the leader to move in a transition from the current totalitarianism and repression to democracy and freedom, that hope was surely dashed in the actions of the Chinese Government this week.

I ask my colleagues to think again. I ask my distinguished colleague from Iowa, whom I admire and respect so much, to rethink the inclusion of a pro-MFN statement in this sense-of-the-Senate resolution.

I thank the Chair and yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, my colleagues—I have been waiting for awhile—have asked me whether they could have a minute—a minute, I say to my colleague from Arkansas—to speak. But I understand their passion and know how strongly they feel about these issues.

My very good friend from New Mexico has also asked for some time, and I would be pleased to defer to him. I ask unanimous consent that I follow the Senator from New Mexico, and that then I will be free to speak and take more than a minute.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

Mr. DOMENICI. I thank my good friend.

The ACTING PRESIDENT pro tempore. The distinguished Senator from New Mexico is recognized.

CBO MIDYEAR REVIEW

Mr. DOMENICI. Mr. President, yesterday the Congressional Budget Office released its annual midyear review. I believe every Senator should acquaint himself with it. This CBO analysis speaks volumes about the success that the Republican-led Congress has had in putting the Federal Government's fiscal house in order—because policies aimed at reducing Federal spending, stimulating economic growth, coupled with the passage of the Balanced Budget Act last year have produced remarkable results.

The Congressional Budget Office, which is our official scorekeeper and economic analysis group, now projects that there will be a Federal budget surplus of $1.6 trillion over the next 10 years. Let me repeat, the Congressional Budget Office now projects a Federal budget surplus of $1.6 trillion over the next 10 years. This is up significantly from the $650 billion, 10-year number they gave us in January.

The Budget Office forecasts surpluses of $63 billion for this year; but they tell us that surplus will grow, rising to $80 billion in 1999; $251 billion in 2008. The Congressional Budget Office estimates that the total accumulated surplus—I repeat —during the next 10 years will be a whopping $1.6 trillion.

More importantly, the Budget Office projects that in the second 5 years, from 2003 to 2008, we will produce a $168 billion operating budget surplus. That means a surplus, excluding the money borrowed from Social Security.

For those who said they wonder when the day will ever come when we will have a balanced budget, having returned to the Social Security trust fund whatever was used in the general funding of this Nation, the Congressional Budget Office says that day will arrive in the year 2003. And it will produce a very genuine and solid $40 billion a year, more or less, in a genuine surplus on budget, taking into consideration the Social Security trust fund in its entirety.

In other words, under the leadership of this Congress, we have moved from Federal budgets that produced deficits for as far as the eye can see to budgets that project surpluses for as far as the eye can see. I believe we must now

move to protect this surplus from those who would use it to expand Government. Rather, our first priority must be to protect and preserve the fiscal integrity of Social Security for the future.

We are committed to that goal. But we are also committed to providing needed tax relief to our hard-working families. We now know that we will have an operating surplus, roughly $40 billion a year, beginning in the year 2005. Therefore, I believe we must see to it that this surplus is available for tax cuts for the American people and that we not spend this money to grow Government. Let us spend this money to grow the paychecks of Americans.

Mr. President, there will be a lot of talk about this Congressional Budget Office's re-estimating of our national fiscal policy. I commend it to those who are concerned, legitimately concerned, about where we ought to go in the future based upon our successes.

I also would like Senators to know that the Congressional Budget Office did not assume a robust, strong, growing economy for the entire next 10 years. They have taken into consideration the potential, although we hope it will not occur, of a downturn in the economy, and we still have these kinds of surpluses—indicating that the economy is vibrant, productive, that the increases in productivity are far greater than we have estimated in the past, tax revenues are growing faster than we estimated in the past.

Clearly, an opportunity now is before us to make sure Social Security is taken care of and also to look carefully and surely right in the eye of, Should we give tax cuts to the American people? I think the answer is going to be a resounding yes.

I yield the floor.

Mr. WELLSTONE addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota.

Mr. WELLSTONE. I ask unanimous consent that I be able to speak briefly as if in morning business, and then go right to this amendment.

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

Mr. WELLSTONE. Thank you, Mr. President, and I thank my colleagues for their courtesy. I will definitely speak to the amendment in a moment.

AUTOWORKERS OF FLINT, MICHIGAN

Mr. WELLSTONE. Mr. President, for more than 5 weeks, the Nation's largest industrial corporation has been locked in a labor dispute with workers in two of its Flint, MI, plants. I do not believe that we have had any discussion on the floor of the Senate about this. I want to speak about it. The company and the workers are fighting over local issues—health and safety, speeding up the production lines, and sending work to outside suppliers—but these local disputes also highlight a broader national concern that affects millions of working Americans: how U.S. corporations invest, how they compete, and where they invest.

GM's hard-line stance and labor-war tactics endanger the livelihoods of tens of thousands of workers in the automotive industry and in the industries that rely on auto production for their business. Ironically, these hardball tactics also undermine the very competitiveness that GM says it wants. Competitive firms need good labor relations; and good labor relations begin with a handshake, not a 2 by 4.

Monday's Washington Post reported that high-level negotiations to end the strike broke down Sunday ''amid signs the auto maker now may be willing to risk an all-out labor war.'' The company has asked an arbitrator to rule on the legality of the strike. The union has said fine. But GM's vice president in charge of labor relations broke off negotiations, refusing to even participate further in talks to reach an overall solution to the strike. The Post further reported, ''A GM source said some top company officials are pushing for a form of drastic action to 'send a clear message to the UAW' * * * Options reportedly under consideration, the source said, range from a legal action challenging the walkout * * *; cutting off health-care benefits to all UAW members idled by the strike; or shutting down the two strike-bound parts plants in Flint, Mich., and contracting out the work. Such a move,'' the Post explained, ''would amount to an all-out war.''

GM has taken the first step, filing a lawsuit against the union. GM would apparently rather sue than negotiate. They would rather fight than talk. The Post has reported that, ''Company sources said the lawsuit is probably the first step in an escalating war between the company and the union.''

This is no way for the Nation's largest industrial organization to treat its workers and their representatives. The duly recognized representatives of GM workers, the United Auto Workers, had sought to negotiate a global settlement. GM senior representative should come back to the table.

Yes, GM has every right to seek to improve productivity and profits. But as yesterday's New York Times reported, ''G.M.'s biggest productivity problem lies in its auto parts factories, which were * * * starved of investment during the 1980's * * * and have antiquated machinery as a result.''

GM entered into agreements with the United Auto Workers to invest more in its American operations but has fallen short of making new demands on workers before it would comply with what it had already promised.

What is really at stake here are American jobs—good jobs, with good benefits. The workers at GM's Flint parts plants are fighting to preserve those American jobs. Over the next 2 years, in this act alone GM threatens to transfer about 11,000 of these jobs to subcontractors or out of the country altogether. GM's workers are justifiably concerned with what the New York Times calls ''G.M.'s steady push to build factories overseas while slowing investment in its low-profit American operations.''

GM should stop fighting its workers and get back to investing in the creation of those good jobs which bring good benefits right here in the United States. Strikes are hard on everyone—on the company, on the economy, and hardest of all on the men and women on the picket line. The best way for GM, or any corporation, to avoid picket lines is to address the underlying problems that lead to strikes, not to challenge the right of workers to strike.

The free world looked upon strikes in the 1930s with hope, because, as Franklin Roosevelt said in 1939, ''Only in free lands have free labor unions survived.'' As long as there have been unions, we have known that the right to strike and liberty go hand in hand.

That is why, in 1860, Abraham Lincoln told striking New Haven shoe factory workers, ''Thank God we have a system of labor where there can be a strike.''

I have confidence in the auto workers of Flint, MI. Although I stand here today on the floor of the U.S. Senate, in my heart I stand with the auto workers of Flint, MI. They know the history of work, the auto workers of Flint, MI.

It was the auto workers of Flint, MI, who, on December 30, 1936, called another strike against the same company, General Motors. The goal of that strike was simple, too. All the strikers wanted was for GM to recognize the union. For over 6 weeks, the auto workers of Flint, MI, stopped production in the famous Sit-Down Strike of 1937. They slept on unfinished car seats and ate what food their families could slip through the factory windows. The auto workers of Flint, MI, faced tear gas, heat shutoffs, and company security guards. Led by their new 29-year-old president of Local 174, a man named Walter Reuther, and the great union leader, John L. Lewis, the auto workers of Flint, MI, prevailed.

Because the auto workers of Flint, MI, were willing to strike, the auto industry was forever challenged. Because the auto workers of Flint, MI, were willing to strike, over the years the automotive industry became a source of good jobs with good benefits and the Nation prospered. GM was the most successful auto maker in the world when it paid the highest wages, not the lowest. Americans want to be the beneficiaries of a more competitive firm, not their victims. And that is exactly why the auto workers of Flint, MI, walk the picket lines today.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

The Senate continued with consideration of the bill.

AMENDMENT NO. 3172

Mr. WELLSTONE. Mr. President, I wanted to briefly speak to this amendment, as well, and I thank my colleagues for their indulgence. I don't know ultimately how we will dispense with this. I understand there has been some change in the language from the original amendment that was brought to the floor.

By the way, I would like to associate myself with the remarks of the Senator from Arkansas, Senator HUTCHINSON.

In addition, I would like to say to my colleague, Senator GRASSLEY from Iowa, a colleague for whom I have a tremendous amount of respect, that there are some provisions in this amendment I just don't quite understand. The idea of most farmers right now being able to put money in IRAs just doesn't make a lot of sense. If I go to northwest Minnesota this weekend and I say, ''We have a sense-of-the-Senate resolution that talks about your being able to put all the extra money you are making into IRAs, tax free,'' they are going to look at me like I have been living on the Moon. What good does it do for farmers who are going under to have a provision talking about IRAs—that you can take all the extra money you have and put it into savings?

For the last several days we have been talking about a farm crisis. We have been talking about 20 percent of the farmers in Northwestern Minnesota in economic trouble. We have been talking about people not being able to cash-flow. Why are we talking about IRAs, tax-free savings, for people who not only can't save but can't cash-flow on the record low prices they are getting?

Second, we can talk about trade and fast track and all the rest. Our farmers can compete with anybody, anywhere, anytime, if we have fair trade. But in all due respect—and my colleague from North Dakota talked about this the other day—if I was to take a look at the United States-Canadian Free Trade Agreement, which was the precursor to NAFTA, which then superseded that agreement, and asked the wheat farmers in northwest Minnesota, ''How are you doing on the basis of that trade agreement?'' they would say, ''What are you all talking about? You cut an agreement that did great for intellectual property rights, that did well for all the big grain companies, but left us completely out in the cold. Why in the world would you want to extend or expand that trade agreement that never gave us a fair shake or level playing field in the first place?''

Maybe the wording of this amendment has changed, and maybe everybody can agree, but I only saw the original version; I was down here on the floor listening to my colleague from Iowa. I have to say, maybe we hear what we want to hear. Maybe we talk to different kinds of farmers. Maybe there is something else that explains this. But I have been to a fair number of farm gatherings, now called ''farm crisis meetings.'' When you walk into a school in northwest Minnesota, there is a sign outside ''Farm Crisis Meeting.''

When people start talking about what is happening to them, there are two things that I hear: No. 1, we need some direct assistance; this is a disaster. In northwest Minnesota, that means scab disease, wet weather, and low prices.

My colleague, Senator CONRAD, I think, will have an amendment on the floor talking about indemnity payments. People are saying, ''In the here and now, please get that payment to us.'' It is like in Ada, Minnesota, I say to my colleague from North Dakota. We got hit with the flooding. It destroyed the high school. FEMA, the Federal Emergency Management Assistance, came in with direct grant money that enabled the communities to rebuild their school. That is what we are talking about—some direct assistance to family farmers so that they can rebuild their lives, so they at least have a chance to go on and don't go under.

The other thing that I hear farmers talking about over and over and over again is price. In all due respect, this Freedom to Farm legislation which my colleague, Senator GRASSLEY from Iowa, talks about, and I have heard other colleagues talk about staying the course, is a disaster. When prices were up, yes, people were for it—some were—when there were the transition payments. But we cut out the safety net; we took away from farmers their ability to have any leverage and get a fair price in the marketplace. Farmers can't cash-flow on less than $2 a bushel of corn and $2.58 a bushel of wheat. It is that simple. I think I am pretty good at arithmetic. If on every bushel of corn and every bushel of wheat you continue to lose a lot of money because it costs you far more to produce it than the price you get, then just producing more bushels of corn and more bushels of wheat will put you further into debt.

The way it works, colleagues, vis-a-vis trade, is we should go with the trade, go with the exports. But if you don't get the loan rate up, the family farmers have no leverage with the grain companies, and the grain companies make the money on the trade; it is not the family farmers. The loan rate is what is key to the price. We are talking about price. It is like when I was teaching in Northfield, MN, at Carleton College, I remember one evening bringing in a bunch of farmers from the community so they could teach the class. Many of the students, even though Rice County, where they lived, was very much an agricultural county, hadn't had a chance to learn that much about agriculture. I remember one farmer coming in and he came up to the blackboard and he wrote down ''price,'' and then underneath it ''price,'' and then underneath it ''price.''

I just want to say one more time, since we had this discussion on the floor here today, that if we don't do something about the loan rate and get it up to give the farmers a price, they can't cash-flow. The exports will be great for the grain companies, but the farmers aren't going to get the fair price. Do you think that farmers, when they are dealing with the big grain companies, are dealing with Adam Smith's invisible hand, some small businesses? They are dealing with a few large companies that dominate. They are facing an oligopoly. They need to have some leverage in the marketplace, so we need to get the loan rate up.

So, with all due respect, I am in profound disagreement about staying the course on Freedom to Farm. It has become freedom to fail. It is great for the grain companies and terrible for family farmers. If you don't get the price up, all the speeches and rhetoric in the world will not help, and the surest, quickest, most efficient, fairest way to get the price is to at least take the cap off of the loan rate.

We lost that amendment yesterday. We are going to come back to it because, in the fall, this situation could be even worse. In the short run, to lead up to my colleague from North Dakota speaking, who is about to lay down an amendment, I fully support this effort by my colleague from North Dakota, which at least will get some indemnity payments out there and give farmers some assistance so our families can stay on the land and they can have a chance at least to dream about a better tomorrow.

I yield the floor.

Mr. GORTON. Mr. President, I must comment on Senator GRASSLEY's sense-of-the-Senate. While I unequivocally support many of the provisions within the amendment, I must voice my concern over the provision regarding extending most-favored-nation trading status to China.

For more than 20 years, the Pacific Northwest has been unable to break China's ban on our wheat. In addition, China has consistently barred imports of our apples and other high quality commodities. With these obvious barriers to American agriculture, I question the wisdom of extending MFN to China when it refuses to open its agricultural markets to our produce.

I have serious reservations regarding extending MFN status for China, but because of the dire situation facing the family farm in America, I will support Senator GRASSLEY's sense-of-the-Senate.

Mr. KYL. Mr. President, the Grassley amendment that is before us today expresses the sense of the Senate about a

wide array of issues, about nine different issues in all. I agree with some of the ideas expressed in the amendment, but I have serious reservations about others.

Mr. President, among the ideas I favor are the provisions of the amendment that express support for additional capital-gains and death-tax relief.

Although it is unclear from the language of the amendment what form that relief should take, I hope Senator GRASSLEY would agree with me that a good approach on capital gains would be something like the 70-percent exclusion that would be allowed by S. 73, the Capital Gains Reform Act, which I introduced last year. That is the same exclusion proposed by President John Kennedy some 35 years ago.

Preferably, death-tax relief would mean outright elimination of the death tax, as proposed in S. 75, the Family Heritage Preservation Act. That bill, which I introduced last year, is cosponsored by 30 other Senators.

Fast-track trade authority is something that I have voted for in the past, and I will vote for it again. Hopefully, we will have the chance to do that before the year is out.

And I have long supported legislation that would provide full deductibility for health insurance for the self-employed. There is no good reason why people who are self-employed are singled out for disparate treatment when full deductibility is allowed for all other employees. We ought to provide 100 percent deductibility, and do it now, not several years from now.

Unfortunately, there is more to the amendment than capital-gains and death-tax relief, health insurance, and fast track. There are other issues, too, and some of them are quite controversial. For example, the amendment expresses the support of the Senate for full funding for the International Monetary Fund (IMF). But what does full funding mean? Is it $3.5 billion or $18 billion—or will it be more, now that the IMF and Russia are talking about another bailout? Will the funding be conditioned on meaningful reform of the way the IMF does business?

We do not know the answers to these questions from the language of the amendment. It is not designed to answer them, because it is merely a sense of the Senate amendment. But without knowing the answers, I believe it would be imprudent to go on record in support of ''full funding for the IMF.''

In fact, many of us have serious reservations about providing more money for the IMF, particularly it if is not accompanied by meaningful reform of the way the international agency does business. Many of us question the fundamental wisdom of having taxpayers bail out bad business practices and bad investment decisions abroad. Therefore, I would have to object to the IMF-related provisions we are considering here.

There is also language in this amendment on economic sanctions. We addressed that issue yesterday when we considered the Lugar, Dodd, and Torricelli amendments, so I am not sure why we are considering it again, particularly since the amendment does not specify what kind of sanctions reform is in order.

Most Favored Nation status for China is another controversial issue, and I believe we need to focus on it separately, more deliberately. There are far too many issues at stake this year to be considering MFN status along with myriad others in this sense of the Senate amendment.

Mr. President, as I said at the outset, this is only a sense of the Senate amendment. It has no force of law, no effect, regardless of whether it passes.

But I think it does cloud the record when issues like the IMF, economic sanctions, and MFN status for China are coupled with things like capital-gains and estate-tax reform, fast track, and health insurance. I would not want support for the latter set of issues to be construed as support for the former set.

Since we will still need to act on separate legislation to accomplish the things raised by the Senator from Iowa in his amendment, and since there are some key elements of the amendment to which I object, I am going to vote against the amendment. It accomplishes nothing, and it adds confusion by suggesting that members either oppose or support everything in it. My ''no'' vote should be construed as a vote against this irrelevant and confusing procedure.

Mr. BYRD. Mr. President, although I have great respect for the Senator from Iowa, Mr. GRASSLEY, and I recognize that he is one of the Senate's foremost experts on matters that affect the Nation's farmers, I nevertheless strongly oppose the pending amendment. The amendment merely expresses the ''Sense of the Senate,'' and in so doing would not, if adopted, result in any legislative action in any of the areas addressed by the amendment. Nevertheless, in my years of service in this body, I cannot recall having seen an amendment that attempted to address so many diverse issues at one time. It amounts to a virtual smorgasbord, a Dagwood sandwich, a grab bag, a hodgepodge designed to enable one to issue a zillion press releases rolled into one. It is intended to be all things to all people. It is analogous to wearing a pinstripe suit, a plaid tie, paisley trousers, and a polka-dotted shirt at the same time.

The amendment raises ten very important matters and expresses the Sense of the Senate that each of these ten matters should be enacted or undertaken by the President and Congress in short order. I will not take the time of the Senate to address in detail each of the areas contained in the amendment. But, for the interest of the viewers who may be following this debate, it urges the President and Congress to pass fast track trading authority—which authority, in my view, would grossly undermine the constitutional prerogatives of the Legislative Branch to oversee trade agreements; it states that Congress should pass and the President sign S. 2178, the Farm and Ranch Risk Management Act; it calls for full funding of the International Monetary Fund—some $18 billion—over which there is substantial controversy at this time as to how much funding should be given to IMF and what reforms should be undertaken by that organization in order to be able to access any appropriations that may be provided to them; it states that Congress should pass and the President should sign sanctions reform legislation so that the agricultural economy is not harmed by sanctioned foreign trade; it urges Congress to uphold the Presidential waiver of the Jackson-Vanik amendment to the 1974 Trade Act relating to normalizing trade relation status to China; it calls on the House and Senate to pursue a package of capital gains and estate tax reforms; it calls on the President to pursue stronger oversight on all international trade agreements affecting agriculture; it then shifts to the question of providing full deductibility of health care insurance for self-employed individuals—urging the President to sign such legislation; it then calls on Congress and the Administration to pursue efforts to reduce regulations on farmers—never mind what regulations, it just says to reduce regulations on farmers; and finally the tenth matter in the amendment calls on the President to use administrative tools available to him to use Commodity Credit Corporation and unused Export Enhancement funds for humanitarian assistance.

Mr. President, this is an amendment which is ill-conceived and should not be attached to this Agriculture Appropriation Bill. It is a very far-reaching resolution, basically outlining an ambitious agenda for the Senate on a number of very contentious issues. I do not want to prematurely endorse action on all the items on this list, particularly before I have had a chance to study the actual language on which he proposes we act. I remind my colleagues of the old adage, ''Act in haste, repent at leisure.'' Each of these matters in the amendment is very important and deserves extensive consideration and debate by the Senate. We should not attempt to address them in this manner at this time.

I urge Senators to oppose this amendment.

Mr. DORGAN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from North Dakota.

Mr. DORGAN. Mr. President, let me briefly rise in opposition to the sense-of-the-Senate amendment that has been offered. While I think there is much in that amendment to commend—and I support some parts of it—the first provision in that amendment is to suggest that Congress should bring up and pass fast-track trade authority. I could not disagree more with

that recommendation. I cannot support a sense-of-the-Senate resolution that includes it.

I want to just demonstrate for my colleagues with some numbers where we have been with fast-track trade authority. I know some people don't want to talk about the details; they want to talk about the theory. The theory is that if you have expanded trade around the world, that is good for everybody. I am all for expanded trade. Put me down as a ''yes'' checkmark on the line for expanded trade. Yes, this country ought to be a leader in expanding trade. But this country also ought to be a leader in saying that we demand and insist on fair trade agreements with our trading partners. And when we have trading partners that don't treat us fairly, this country ought to say, stop, wait, we won't allow that to continue to happen. We ought to say to the Chinese, Japanese, Canadians, Europeans and, yes, others that I could mention but have not, when we have a relationship with you, it must be different than the relationship we used to have just after the Second World War.

Just after the Second World War, almost all of our trade relationships were foreign policy issues. How do you treat this country? Well, this country is weak and rebuilding, so let's give them concessions here and concessions there, and we will open our market up to their products, and they can close their market to ours, because we are bigger and better and stronger and tougher and we can beat anybody with one hand tied behind our back, and that is fine. For a quarter of a century after World War II, that is the way we thought and behaved, and it didn't matter because we succeeded anyway. Income in this country had increased, economic growth was substantial, and we were just fine.

The second 25 years, post-Second World War, have been different. Our trading partners are now stronger, better, shrewder. We still have the softheaded notion that our trade policy ought to be foreign policy. We say to the Chinese, you can ratchet up in one decade a $50 billion or $60 billion trade surplus with the United States, or put the United States in a trade deficit position with China, and it is OK. Let the United States be your cash cow for your hard currency needs. That is OK. We are willing to do that. With Japanese trade, as far as the eye can see, there are $40 billion, $50 billion and $60 billion deficits every single year that we experience.

We are urged to pass fast track authority. Now, fast track—which is the reason I am objecting to this amendment—is a specific, unusual procedure that says, let's have the American trade negotiators go somewhere and negotiate a trade agreement. Almost always, it will be in a closed room, and almost always, behind a closed door. They negotiate the agreement and then bring it back. Here is the catch: Fast track means that when it is brought back to the floor of the House and the Senate, there are no amendments—no democracy here—just up or down. There are no suggestions for improvement, no objections, no amendments. You must vote up or down, yes or no, and that is fast-track authority.

Mr. President, let me just review a couple of the fast-track agreements we have had. Well, our folks went off and negotiated with Canada a fast-track trade agreement. At the time, we had about an $11 billion trade deficit with Canada. So our negotiators got involved and got behind those doors. I don't know whose ''jerseys'' they were wearing. I kind of wish we could buy them jerseys and they would say ''U.S.A.,'' indicating that they represent the good old U.S.A., that they are on our team, that they are negotiating for us. I kind of wish we could put jerseys on them and send them into the room. I expect that the people wear white shirts, and they have all the theories in mind, and they talk back and forth about trade theory.

In any event, when they did it with Canada, here is what happened. We had an $11 billion trade deficit with Canada. They went in and talked about their theories and did their little deal behind closed doors, and they brought it back to the Congress and said, OK, there's no chance for amendments. So the Congress passed it—not with my vote; I voted against it—Congress passed it, and guess what? The trade deficit with Canada doubles. It doubles. And the people that negotiated the agreement say, gee, didn't we do a good job? This is really working well. Well, what school did they go to? They do a trade agreement and our deficit doubles, and they think we are making progress? I don't know of any schools that teach that.

So they say, well, that is not enough. Now let's do a deal that includes Canada and Mexico and call it NAFTA, and we will do it under fast track. So we get them all at the table, close the room, bring more chairs to the table and negotiate some more. Still no jerseys, I expect. But they negotiate and negotiate, and they come back. Now, we had a $2 billion trade surplus with Mexico as we started negotiating.

They come back with a trade agreement, and they say to Congress, ''Gee, you've really done a good job this time.'' And Congress votes on no amendments with no opportunity to change it. I didn't vote for it. But Congress supports it, because fast-track trade authority prevents anybody from making any adjustments or changes. And the Congress then passes NAFTA, the North American Free Trade Agreement. At the time, we had a $2 billion trade surplus with Mexico. Guess what happened. The $2 billion trade surplus evaporates, and the $2 billion trade surplus we had with Mexico now becomes a $14 billion to $15 billion trade deficit—$14 billion to $15 billion deficit—and the same people who told us we ought to do it say, ''Gee, this is working really well.'' Apparently they went to the same school and took the same classes.

Let me give you some numbers with respect to Mexico, just as an example. This is how they describe these trade agreements. They say, ''From 1993 to 1996, do you know that we increased our exports from the United States to Mexico by $14 billion?'' Why, give them a blue ribbon at the county fair—$14 billion increase in exports from the United States to Mexico. They don't read what is on the other page, do they? The other page says, ''Oh, yes, we did increase our exports to Mexico some''—$14 billion. But imports from Mexico into the United States increased nearly double, from $39 billion to $73 billion—$34 billion increase in imports from Mexico. In fact, we now import more automobiles from Mexico into the United States than the United States exports to all the rest of the world.

We were told with NAFTA, by the way, ''If you pass NAFTA, guess what will happen. The products of low-skilled labor will come into the United States. That is what will happen with Mexico.''

What are the three largest imports from Mexico? The products of high-skill labor: Automobiles, automobile parts, and electronics.

But my point is simple. With Canada, with Mexico, the two most recent examples, they are saying: Take fast track, let us negotiate it, and we will essentially shove it down your throat with no opportunity for amendment, and things will work out just fine. If history is any guide, we ought to understand things don't work out fine. The NAFTA agreement was not a good agreement for this country. It is not working. It has increased this country's trade deficit. The agreement with Canada has not worked.

My colleague from Minnesota and I know other people get tired of me saying this and referencing the Canada agreement. And I am going to say it again. The Senator from Iowa acknowledges that he either heard it before or is tired of perhaps hearing it. But there is virtually a flood of grain coming into this country from Canada. Mr. Clayton Yeutter, good enough fellow, was trade ambassador at the time. He went up to negotiate this. I was on the Ways and Means Committee in the U.S. House at the time. I have in writing from the trade ambassador a representation that the trade agreement between the United States and Canada would not result in the increase in quantity of grain being shipped across the border either way—in writing, a guarantee from the trade ambassador. That is what the two sides agreed to. It wasn't worth the paper it was written on.

The agreement was passed. The fact is, we had this flood of unfairly subsidized grain coming in. We tried to enforce our laws and get the information that we ought to get from the Canadian Wheat Board.

By the way, in the negotiations with Canada, we said, ''We will allow your state monopoly trading enterprise to ship into this country.'' It would be illegal in this country, by the way, to have a state monopoly trading enterprise like the Wheat Board. But we will allow that Canadian Wheat Board to ship into our country and unfairly compete with United States farmers and refuse to disclose information about the shipping costs and the cost of acquisition.

So we finally decided to push really hard on this, and file complaints, and so on. Then we discovered a secret deal had been made with the Canadians by the trade ambassadors, and which had not been disclosed to any of us, which said in terms of antidumping, and so on, in the United States that we agree that certain payments under the GRIP payment system by the Canadian Wheat Board to Canadian farmers will not be included as acquisition costs for their grain, which means you would never be able to prove antidumping because, by definition, they excluded part of the cost of acquisition of the grain. It just essentially sold out American farmers.

I will never go for fast track—never—under these circumstances. It is not in this country's interests.

Is it in this country's interest to increase the Federal trade deficit? If so, how? Someone explain that to me. Is it in this country's interest to do another trade agreement that increases the deficit? I don't think so. Yet, what trade agreement have we in recent years negotiated that has not resulted in a substantial increase in this country's trade debt or trade deficit? Name one. No one in this Chamber can name one trade agreement that has turned out in recent years. That is because, as I have said before, our trade policies in this country are soft-headed and weak-kneed. And, yes, that is strong language, but it describes exactly what is happening to trade.

We have negotiators that negotiate fundamentally incompetent agreements because they don't have the nerve and will, it seems to me, to stand up for this country's interests. I have even thought that maybe on an appropriations bill I would offer an amendment that says let's add at least four or five employees down at USTR, and we will name them ''Backbone,'' ''Nerve,'' and will add a couple other names, and see if we can't inject some kind of passion to stand up for this country's interests and to say that we care about America's farmers, that we care about America's jobs, and we are willing to compete with anybody in the world—anybody. But the competition must be fair with respect to farmers. It is not fair.

If a state monopoly pushes the flood of unfairly subsidized grain across our border, it drops the prices for American farmers. It is not fair. It is not fair that factory workers in this country are told: ''You compete against 14-year-olds that work 14 hours a day for 14 cents an hour somewhere on the other side of the globe.'' That is not fair competition. Yet, that is precisely what is negotiated in these trade agreements.

My only point is—I will simplify it because others want to speak. I was going to offer a second-degree amendment to strip out the first provision which would push for fast-track trade authority. But in deference to time—Senator COCHRAN and Senator BUMPERS are gallantly trying to run this bill through the Senate in a way that is thoughtful and favorable to everybody—in deference to that, I will not offer a second-degree amendment. I will just oppose the amendment that has been offered. I want to cooperate. I think other Members do as well.

I do just want to say that while there is some in this amendment to commend it—some provisions to commend it, the first provision that says let's start doing again that which has failed us so badly, let's begin anew to stimulate trade policy that has resulted in such substantial increases in our Federal trade deficits, let's try once again and see if we can't do more trade agreements that have resulted in such unfairness to American farmers, I say there is no sense in that at all.

Let me complete my statement by just showing a couple of charts. This is the trade deficit. If this isn't an avalanche of red ink, I don't know what is. Those who say this is a successful strategy, I say get me the names of the people who negotiated these trade agreements and let's make sure they do not negotiate again for this country.

Let me just provide the one that shows what is happening with China. Our trade deficit with China is $50 billion and getting worse yearly. We don't get enough wheat into China. They displaced us as a major wheat supplier to China, as you know. We don't get enough pork into China. They consume half the world's pork. Our trade agreement with China, or the agreement by which we trade with China, is fundamentally unfair with us. If we take your trousers, shoes, shorts, and shirts, you take our beef and wheat, and don't tell us when you need to buy our airplanes from us, that you will only buy our airplanes from the United States if they come and manufacture them in China.

That is not fair trade.

Let's stand up for this country's interest.

There are some who say, ''Well, when you talk like that, you are a protectionist.'' I am not a protectionist. I am for expanded trade. But I am darned sure for insisting that this country demand fair trade.

Let me just, with one final chart, describe graphically what I have talked about now for a few minutes.

In 1993, when we negotiated the trade agreements with Canada and Mexico, we had a $2 billion trade surplus with Mexico and an $11 billion trade deficit with Canada. Two years later, three years later, that trade deficit went from $11 billion to $23 billion with Canada, and it went from a surplus of $2 billion with Mexico to a nearly $16 billion deficit with Mexico.

If that is progress, you give them the names of people who call it progress, and I think they ought to be banned from further trade negotiations.

So I cannot support the amendment that is offered because it calls for fast-track trade authority and the renewal of that authority. And while I will not offer a second-degree amendment to strip that, I will simply vote against the amendment for the reasons I have stated.

Mr. President, I yield the floor.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER (Mr. GRAMS). The Senator from Idaho.

Mr. CRAIG. Mr. President, for just a few moments I would like to agree with the Senator from North Dakota on a couple of points that he just made. But I would also like to disagree with him on a few other points.

He, like I, voted against the Canadian Free Trade Agreement, and we both voted against the North American Free Trade Agreement because we felt they were not properly negotiated. We felt both agreements had loopholes in them. The Senator from North Dakota has pointed out some of those loopholes.

What we disagree on is the sense-of-the-Senate resolution that is before us now which clearly outlines what a lot of farm and commodity groups in this country feel they need this Congress and this administration to do to improve the situation down on the farm. The Senator from North Dakota is right. The situation down on the farm is not very good right now. There are a lot of farmers losing money. But the Government should not dictate rules to farmers, and the Government should not be the total safety net. In a free enterprise system, such as ours, there should be an element of risk. In the 1996 FAIR Act, Congress have offered farmers flexibility along with that risk. Today, the Senate must decide how to shape that flexibility in a way to assure that farmers can make a safe transition to Freedom to Farm. This is where the Senator from North Dakota and I disagree.

Yesterday I talked to the Governor of North Dakota, the president of the North Dakota Farm Bureau, and representatives from the North Dakota Wheat Growers. I left that meeting with the impression that these folks from North Dakota don't agree with the Senator from North Dakota either. They told me North Dakotans don't want to see Freedom to Farm reversed. They don't want Congress to lurch back into the failed policies of the past. They don't want the Government to be the largest provider of income to American agriculture, to be the one that holds the hand of the farmer and

tells the farmer what to farm, how to farm, and when to farm. They agree that these choices ought to be made by the individual, as a free person in a free market.

Now, Government has a role. The Senator from North Dakota is right when he states that the Government has not been fulfilling that role well. However, that role is not to be a safety net. It is not to be a caretaker. The proper role of the Government is to be the force which opens the door at the border. Government is to be a facilitator.

I agree with the Senator from North Dakota on that point. Our negotiators ought to put jerseys when they go into trade talks. I want it to be Team America working for America and America's farmers. But I don't want a government check to be the sole source of income to America's farmers. Past administrations tried it and farmers became victims of an agricultural system design by Government. It did not work.

Now agriculture is in transition. Times are not easy. And all of us are trying to sort out what can be done to help agriculture through that transition. But a step back into the past is not the route to take. I believe what the resolution before us today is exactly what American agriculture is looking for.

What I want to know is why was this administration asleep at the switch for 12 long months while commodity prices slid and never used the tools Congress have given them to make a difference? Was it politics or was it simply ignorance of what was going on? Did they not know what they could do and what they should have been doing?

What we heard from the commodity groups is very simple: Keep Freedom to Farm. Give us the flexibility and trade, trade, trade. They don't want crops stored on the farm—not for 1 year, not for 2 years, not for 3. They do not need a huge surplus hanging over the market. Let's move the grain. Let's sell the product.

Yet, what has this administration done? They haven't used one tool to make a difference, and they don't know how to do it. That is what is frustrating to me.

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

Mr. CRAIG. I can't yield. We have a time limitation. Let me close, and then the Senator from North Dakota can speak if he wishes, because there is a lot that we agree on but there is also a lot that we disagree on.

I do not want to look into the past. I want to look into the future. I want American agriculture to modernize and develop the flexibility that it ought to have. I want to help them when they need help. That is what we are on the floor discussing.

The Senator from North Dakota talks about trade deficit. Trade deficits have occurred, and I do not like it either. But I have also watched our ability to trade expand with every agreement that we have struck. We know that in American agriculture today, if you don't sell 40 percent of the crop you raise in a foreign market, you are in trouble financially. That is why they are in trouble financially today—because this Government, this administration, this USDA, didn't help them sell the product at a time when markets were collapsing and other governments were aggressively pursuing those markets.

So there are things we can do, but I hope this Senate will not step backwards into a dark age of government programs, farming controlled by Government, forcing farmers to live with a government check arriving in the mailbox as their only source of income. My farmers don't want that. Most farm groups don't want that.

That is what this resolution is about—to craft a sense of the Senate in the area of trade, in the area that deals with taxes, to offer farmers the flexibility so that they won't be injured like they where when a Democrat controlled Congress in 1986 rolled back the ability of farmers to use income averaging. Congress ought not make those same mistakes again. I don't think we will.

So let me conclude by saying this. There is a lot that the Senator from North Dakota and I agree on. We agree on the Government's inability to negotiate good trade agreements. Our trade negotiators need to be out there, working for agriculture.

I voted yesterday and I will vote today and probably again next week for programs to help American agriculture out during this transition, but they have to be compatible with Freedom to Farm. We can't go back to all kinds of on-farm programs that store the wheat and store it and store it and store it for another year. Let's sell it, move it through the market, so we can get on with the business of transition. That is what I think this resolution represents. I hope the Senate will support it.

I yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. I will take just a couple minutes, but I must respond to the Senator from Idaho. There is no time agreement here. I wish the Senator would have allowed me to ask a question and he had responded to it.

Mr. CRAIG. I would be happy to respond to a question.

Mr. DORGAN. I would like us to have a debate. In fact, the Senator from Idaho was winning a debate we weren't having a few minutes ago. So that is the easiest debate to win. We weren't having a debate a couple minutes ago about price supports. We were having a debate about this amendment. But we did have a discussion yesterday about price supports, and the Senator from Idaho described the Democratic Congress previously that did so and so, and the President, and USDA.

This is not about which party has forsaken farmers. This is about, after all, what can be done to help farmers survive in the future. I am all for this nation to say to farmers, ''Get your money from the marketplace.'' I would love for a farmer to load up a truck and drive that truck to the country elevator and raise that hoist and drop that grain and sell it and get a decent price for it. But I will you this: that farmer loses money on every load of grain and loses big money, not because of something they have done but because of a whole range of other reasons—because, first of all, we have bad trade agreements, we have unfair grain coming in undercutting their markets, we have trade sanctions that mean 10 percent of the international wheat market is outside of their ability to sell, when they market up into the neck of a bottle against grain trade firms that hold an iron fist around the neck of that bottle when they buy farm machinery and equipment—guess what. They pay for it. They pay through the nose because those prices are going up.

When they try to get their grain to a flour miller, four milling firms own over 60 percent of the milling capacity in this country. The same thing with wet corn milling. The same thing with meatpackers.

If the Senator from Idaho can tell me that a family farmer driving on that lonely road in an old truck, in most cases a 10- or 12- or 15-year-old truck, trying to get those few bushels of grain to market, hoping above hope that they will be able to get something for that grain that meets their cost of living and meets their cost of production—if the Senator from Idaho can tell me that the deck isn't stacked against those farmers, that we don't have virtual monopolies in every area they turn around, that they don't show up at a railroad track and find that there are not two or three railroads ready to serve them, there is one (and in my State they will double-charge because there is no competition)—if the Senator from Idaho can tell me that that farmer driving that truck is driving down the road towards free and open and fair competition, then I say that is just fine, then we ought to butt out.

But if the Senator can't say that—and I do not think he can say that in a million years—then somebody, somebody, had better say that family farmers matter and the future of this country will be benefited and enhanced if we decide that family farming has value and merit.

I said it yesterday, and I am going to say it again. There is something so fundamentally wrong with what is happening in this country with respect to agriculture. We have people starving on the other side of the world, people trying to eat leaves on trees because they don't have food, and we have people driving their trucks to the elevator, sweating all year and risking everything they have in life to plant a crop

and harvest it, and they are told when they get to the elevator that their grain doesn't have value, their crop doesn't have value. That is a situation we must find a way to correct and change.

So, while we agree on some things, the Senator from Idaho and I, one thing we don't agree on is suggesting, as he has suggested, that, ''Gee, it is the Democrats here, Democrats there.'' All of us, Republicans and Democrats, have a stake in whether there are family farmers in the future.

I wish very much that we never again have to have a farm program that provides support prices. But I will say this, when grain prices collapse and crops are ravaged by disease, if someone is not available to step in to say to family farmers, ''We are here to help; you matter,'' if someone isn't around to say, ''We are not going to pull the safety net out from under you because we want you in our future,'' then they are not going to survive and we will have corporate agrifactories farming America from the west coast to the east coast. And some might be fat and happy about that, thinking it is good for the country, but it won't be me, because we will have lost something very important in rural areas of our country.

I know the majority leader wishes to be recognized. I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, this is a sense-of-the-Senate resolution. I know the issue is very important. I know Senators had wanted to be heard on it. But we have now been in session for 1½ hours and we have been on a sense-of-the-Senate resolution. I wonder if the Senate is not prepared to vote here momentarily. I know Senator COCHRAN has been working on that. Senator HARKIN will use just a couple of minutes, and Senator DASCHLE—did the Senator want to comment on this?

Mr. DASCHLE. Mr. President, I agree with the majority leader. There is no reason why we can't bring this to closure. I think there is going to be a strong vote for it. We ought to just get on with it.

I will be prepared to go to a vote immediately. I know Senator HARKIN had a couple of minutes he wanted to speak. Then we can hold it open, if we have to accommodate a Senator. So we can get on with the vote.

Mr. LOTT. I would like to do that, because someone else will come in and say, ''Could you delay it a little longer?'' Or, ''Do it quicker?'' I would like to accomplish it quickly, but it is impossible to accommodate everybody.

I want to make this point. We have had some good debate on this. I know there are some important issues out there. But we need to get on with it and we need to complete this bill this afternoon. I would say to my colleagues, we are going to have to finish it today because we have other votes.

I hope everybody would recognize that this afternoon at some point we should just start, on both sides of the aisle, moving to table all amendments. If we had a vote right now on this bill, it would get over 90 votes. So I hope the Senate would cooperate. I know Senator DASCHLE and the managers on both sides are trying to do that. But I am a little nervous that the tempo is not there yet to get this completed so we could go on to other appropriations bills and so Senator DASCHLE and I can continue to work to try to get agreement on other important issues.

So please let's cooperate. Let's bring this to a conclusion by the middle of the afternoon. I yield the floor.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, I agree with the majority leader. We have had a good debate. We have had some very important issues debated. We were on the Lugar amendment most of the day yesterday, for good reason. It was a very controversial issue that I think was important. We had a good opportunity to discuss it. We have had some good amendments on this side.

But there comes a time when we have to bring this matter to a close. I hope my Democratic colleagues can work with the leadership here in an effort to come to a finite list that is narrower than the one that currently exists, in an effort to accommodate our schedule. I am hopeful we can do that in the next couple of hours so we have a very definitive list of what needs to be done and we can finish this bill sometime tonight or this afternoon.

I yield the floor.

Mr. DORGAN. 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. 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. The Senator from Iowa.

Mr. HARKIN. Mr. President, I have been listening, of course, to the last couple of days of debate. I sympathize with the majority leader and minority leader on the issue of moving ahead with the legislation. I think we should. There are some very important issues here on agriculture. We have a crisis looming for our farmers, ranchers, and our rural economies all over America.

Maybe it has not hit with full force and effect yet, as it has in North Dakota, and maybe a couple of other places, but we are on the cusp of it in Iowa. I had an Iowa farmer call me yesterday. The corn price in northwest Iowa is down to $1.89 a bushel, and it is dropping every day. It doesn't look like it is going to get any better. There is nothing out there, nothing out there that is going to do anything between now and harvesttime.

I was checking the figures a little bit, with what we had in the 1980s. We had corn priced in the 1980s—about 1985, it was down to $1.50 a bushel, and after that we had a whole wave of foreclosures and farm bankruptcies. Those of us who have been around remember that in the 1980s. The corn price in Iowa is getting down to that same level again, when you consider the increase in the cost of inputs and everything like that. So we are back where we were, right before the wave of foreclosures and bankruptcies in 1985, 1986, 1987, and 1988.

You would think we would learn from history not to repeat that, not to wait too long before we respond to this crisis. But that looks like what we are going to do here. We are just going to jaw it around and talk about it and not do anything.

I had a sense-of-the-Senate resolution a couple of days ago that basically said there is a crisis out there. There are problems out there. There is a sense of the Senate that the President and the Congress should immediately respond to this farm crisis out there. Mr. President, 99 Senators voted for it.

Yesterday, we really had a chance to do something about it by lifting the caps on the loan rates, at least for 1 year, and giving farmers more flexibility in being able to market their crops, and giving them 15 months rather than 9 months to pay it back in a marketing loan procedure—which would not leave grain hanging over the market. I heard that debate around here. Obviously, people don't understand marketing loans if they say that. So we had a good debate on that. And we lost, 56 to 43. Not one Member of the Republican side voted for it—not one. Not a single one. Yet the day before they said there was a crisis there and we have to do something about it.

Now we have another sense-of-the-Senate resolution by my colleague from Iowa. It has a lot of good language in there. There are a lot of good things we ought to do. Funding IMF, I am all for that; China; capital gains and estate tax reforms, I am all for that. That is good. Oh, yes, the Farm and Ranch Risk Management Act, which allows farmers to have IRAs. That is fine, too. But before you can have an IRA, you have to have some money. They don't have any money.

So, while my colleague's sense-of-the-Senate resolution sounds very nice, it doesn't do anything. So, once again, I guess the Senate is going to be the greatest deliberative body in the world. We will deliberate it but we won't do anything. So that is basically what we have here in this resolution.

I must say that I have one serious reservation about this amendment the Senator from Iowa offers. It says:

> Congress should pass and the President should sign S. 1269, which would reauthorize fast-track trading authority for the President; . . .

There may be a fast-track bill that I could support, but I cannot support that one. While I might vote for this amendment, I want to be clear on the

Record that I do not support S. 1269. I had an amendment to that bill that I thought had a good chance of being adopted if we ever got it on the floor. We never did. But I could never vote for S. 1269 as it is drafted.

Some of the other things in here are pretty good. I would say probably about 70 percent of this amendment is pretty good, and 30 percent is not too good. You have to weigh those around here.

We can all vote for it. It might make you feel good, but it doesn't do anything. This resolution doesn't do a thing to get the price up for our farmers. Why don't we just have sense-of-the Senate resolutions around here forever, then we won't have to do anything, but it will make you feel good. If you want to feel good, you can go ahead and vote for the Grassley amendment, but I don't think it is going to do one single thing to get the price up for our farmers that is going to help them get through this next year, not one single thing. I yield the floor.

Mr. COCHRAN. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to amendment No. 3172. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Ohio (Mr. GLENN) is necessarily absent.

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

The result was announced—yeas 71, nays 28, as follows:

[Rollcall Vote No. 206 Leg.]

YEAS—71

Abraham	Domenici	Leahy
Akaka	Durbin	Lieberman
Allard	Enzi	Lott
Baucus	Faircloth	Lugar
Bennett	Feinstein	McCain
Biden	Ford	McConnell
Bingaman	Frist	Moseley-Braun
Bond	Gorton	Moynihan
Boxer	Gramm	Murkowski
Breaux	Grams	Murray
Brownback	Grassley	Nickles
Bryan	Gregg	Robb
Bumpers	Hagel	Roberts
Burns	Harkin	Rockefeller
Chafee	Hatch	Roth
Cleland	Hutchison	Santorum
Cochran	Inouye	Shelby
Collins	Jeffords	Smith (OR)
Coverdell	Johnson	Stevens
Craig	Kempthorne	Thomas
D'Amato	Kerrey	Thurmond
Daschle	Kerry	Warner
DeWine	Kohl	Wyden
Dodd	Landrieu	

NAYS—28

Ashcroft	Feingold	Kennedy
Byrd	Graham	Kyl
Campbell	Helms	Lautenberg
Coats	Hollings	Levin
Conrad	Hutchinson	Mack
Dorgan	Inhofe	Mikulski
Reed	Smith (NH)	Torricelli
Reid	Snowe	Wellstone
Sarbanes	Specter	
Sessions	Thompson	

NOT VOTING—1

Glenn

The amendment (No. 3172) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments?

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. LOTT. Mr. President, it is 12:15 and we have had one vote. We have dispensed with a sense-of-the-Senate resolution on the agriculture appropriations bill. Now the managers are having difficulty getting Senators to come to the floor and offer amendments. This is beyond ridiculous.

If we don't get going in the next 15 minutes or so, we are going to go live on a quorum. I am going to look, then, for the next serious action to take, because we should be through with this bill. If Senators are serious, they should be here offering their amendments. If they are not, then we are going so start having votes of another nature. We are not just going to stand in a quorum for the next hour, hour and a half. It is not fair to the managers. We will be here at midnight tonight, and I don't think anybody wants that.

So again, I call on Senators to come to the floor. Surely a Senator has an amendment, out of the 40 amendments we have pending, that could be offered. Let's dispose of it.

We will wait 15 minutes, or so, to get one going and then we will go to a live quorum.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I am in the majority leader's corner on this. This is unforgivable. Maybe there is some forgiveness in the order because most Members on our side are in a meeting with the President right now. I am hoping that somebody will have the nerve to walk out of that meeting to come over here and offer an amendment and get this show on the road.

The other thing that is mildly encouraging is that we have been going over the list of Democratic amendments, and an awful lot of them are folding, and some are going to be accepted. I only know about three or four fairly controversial amendments that are probably going to require a rollcall vote—in the vicinity of three or four. The rest, I think, are either not going to be offered, or we are going to be able to accept them. Hopefully, we can get through here by sometime in the middle to late afternoon.

I certainly appreciate the majority leader's frustration, with all of these amendments lying around and nobody here to offer them. In all fairness, the reason nobody is over here is because they are all in a meeting with the 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. KYL. 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. KYL. Mr. President, I ask unanimous consent to proceed as if in morning business for not to exceed 15 minutes.

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

CHINA TASK FORCE INVESTIGATION

Mr. KYL. Mr. President, I was disappointed by some of the actions of the majority leader's statement the day before yesterday in which he provided an update on the Senate inquiry into U.S. policy on satellite exports to China.

In particular, some charged that the majority leader was engaging in partisan politics when he simply presented some of the things that we have learned in the 13 hearings and the numerous briefings and meetings held on that subject to date.

As a member of the task force appointed by the leader, I can state conclusively, Mr. President, that this investigation is driven by a desire to safeguard our Nation's security, and it is not motivated by partisan politics.

Let's examine the five main points that the leader raised in his remarks.

Point one: The Clinton administration's export controls for satellites are inadequate and have not protected U.S. security.

Many of us have been dismayed at the lax implementation and the irregular application of safeguards during launches of American satellites in China. For example, the Clinton administration has failed to require Defense Department monitors for every Chinese launch of U.S. satellites. Monitors are typically Air Force officers who are required to be present at all meetings with the Chinese launch service provider and the American satellite exporter. The monitor's presence is necessary because sensitive know-how can be inadvertently disclosed.

Chinese officials make no secret of their desire to obtain high-tech information, and the incentive for an American company to provide information

necessary for a successful launch of a multimillion-dollar satellite is great, therefore a monitor can be extremely helpful in reducing the amount of information that is shared with Chinese engineers and scientists.

Although Clinton administration officials routinely note the importance of monitors in testimony and briefings, under the current system, monitors are not required by statute, regulation, or international agreement. In fact, during three satellite launch campaigns conducted in China since 1995, monitors have not been present at any stage of the process. In three other launch campaigns in China, though not required by the government, monitors have been present only for the launch, but not the important technical exchange meetings dealing with mating the satellite to the launch vehicle and ensuring that it survives the stressful launch environment and is delivered intact to the intended orbit.

The majority leader's point that export controls on satellites are inadequate is not merely endorsed by the members of the task force. As the New York Times said in an editorial on the issue on May 26, ''In its eagerness to improve relations with Beijing and expand American commerce in China, the White House has been careless about enforcing security protections.'' One month later, the New York Times again commented on the subject in another editorial on June 19 which stated,

> Evidence keeps mounting that the Chinese Army is exploiting flawed American export controls to acquire sophisticated satellite communications technology for military and intelligence use. The Pentagon and State Department are now questioning the pending sale of a Hughes communications satellite whose upgraded design would let Chinese authorities eavesdrop on mobile telephone conversations at home and abroad. President Clinton should suspend this sale and the licensing of any more satellite deals with China until export control rules are tightened. In particular, he needs to put the State and Defense Departments back in charge of export approvals and diminish the role of the Commerce Department.

That is the New York Times speaking. That is not the majority leader. It is obviously a sentiment he shares.

This sentiment is shared on a bipartisan basis. During a hearing of the Governmental Affairs Subcommittee on International Security, Senator CLELAND criticized the administration for shifting responsibility for regulating satellite exports from the State Department to the Commerce Department stating, ''I've got more and more concern about Commerce becoming the lead dog here. I'd rather hedge my bets and put national security first and commerce second.''

The second point made by the leader day before yesterday was that in violation of stated United States policy, sensitive technology related to satellite exports has been transferred to China.

Mr. President, this is also an accurate, objective statement that is widely shared. Additional hearings will be necessary to continue to gauge how much damage has been done to United States national security, but several launches have occurred in China without the necessary safeguards and at least two analyses conducted by American companies of failed launches have been sent to China without first being reviewed by the State or Defense Departments.

As the Washington Post said on May 31,

> There is little dispute that some American know-how inevitably seeped across to the Chinese, despite strict rules covering what technology United States companies could share with the Chinese and despite the monitoring of contracts by United States Air Force specialists. The argument is over how much seepage occurred and whether any of it helped China improve its military rockets.

Again, the majority leaders' comments are vindicated by the press.

The third point made by the leader day before yesterday was that China has received military benefit from United States satellite exports.

Additional information in this regard may be uncovered as the Senate's inquiry continues, but some key information has already come to light. Last month, in a front page story published on June 13, the New York Times broke the news that,

> For the past two years, China's military has relied on American-made satellites sold for civilian purposes to transmit messages to its far-flung army garrisons, according to highly classified intelligence reports. The reports are the most powerful evidence to date that the American Government knew that China's Army was taking advantage of the Bush and Clinton Administrations' decisions to encourage sales of American high technology to Asian companies.

Again, the majority leader was not wrong. He is right.

The fourth point made by the majority leader was that the administration has ignored overwhelming information regarding Chinese proliferation and has embarked on a de facto policy designed to protect China and United States satellite companies from sanctions under United States nonproliferation law.

This is another objective observation about what we have learned from the hearings conducted so far. And again I turn to reports in the media in confirmation of the majority leader's point. As the Washington Post reported on June 12,

> The former chief of the Central Intelligence Agency's weapons counter-proliferation efforts told a Senate committee yesterday that the Clinton Administration's determination not to impose economic sanctions on China led it to play down persuasive evidence that Beijing sold nuclear-capable M–11 missiles to Pakistan. ''There's no question in my mind'' that China sold 34 M–11 missiles to Pakistan in November 1992, Gordon Oehler, former director of the CIA's Nonproliferation Center, told the Senate Foreign Relations Committee. Intelligence agencies are ''virtually certain'' the sale occurred he said, but ''intelligence analysts were very discouraged to see their work was regularly dismissed'' by Clinton aides.

Yet despite this overwhelming evidence, the Clinton administration has not imposed sanctions and as a result of the transfer of authority over satellite exports from the State Department to the Commerce Department, satellite exports have been shielded from the effects of sanctions. Prof. Gary Milhollin made this point in testimony to the Armed Services Committee on July 9, stating,

> One of the main effects of this transfer has been to remove satellites from the list of items that are subject to U.S. sanctions for missile proliferation. In effect, the transfer has given Chinese firms a green light to sell missile technology to Iran and Pakistan. Chinese companies can now sell components for nuclear-capable missiles without worrying about losing U.S. satellite contracts.

The administration has been interested in shielding China from the effects of United States nonproliferation sanctions for some time. According to a classified National Security Council memo reprinted in the Washington Times in March, the administration believed one of the benefits of United States support for China's membership in the Missile Technology Control Regime would be ''substantial protection from future U.S. missile sanctions.''

And again what the majority leader said is on the record. It is vindicated. It is not wrong.

The fifth and final point made by the majority leader day before yesterday was that new information has come to light about China's efforts to influence the American political process and that the Attorney General should name an independent counsel to investigate.

I serve on the Intelligence Committee which recently received classified testimony from the Attorney General and the Director of Central Intelligence on this subject. While obviously I will not comment on that testimony here, I simply point out that over the past few months a great deal of troubling information has been published on the subject in the press. As the Senate investigation proceeds we may uncover additional information in this area, but in my view the appointment of an independent counsel to investigate these allegations is already long overdue.

As I have tried to demonstrate today, attempts to portray the majority leader's statement or the work of the task force as partisan politics are simply invalid. The protection of our nation's security has been—and should be—our only concern. I urge my colleagues to examine the RECORD before leveling such charges. Although the Senate investigation will continue, it is clear that we must change the way we handle export controls on sensitive technology or risk further jeopardizing America's security.

The bottom line, Mr. President, is that when the majority leader made his controversial remarks, he was right and the record needs to reflect that.

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

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

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

The Senate continued with the consideration of the bill.

Mr. CONRAD. Mr. President, I am going to begin discussing the amendment that we have been working on, on a bipartisan basis here, for a number of days, awaiting final determination from the Budget Committee on the question of a budget point of order. That is being discussed now by their legal people and the chief of staff of the Budget Committee. While we are awaiting that determination, I would like to take this opportunity to talk about the circumstances we find ourselves in and why the amendment that we have been discussing is needed.

The basic idea is that we have enormous economic distress out across farm country. Certainly, in my own State, we have seen a triple whammy of bad prices, bad weather, and bad policy. The result has been collapsing farm income, and the result of that is thousands of farmers being forced off the land.

This chart shows North Dakota farm incomes being washed away in 1997. According to the Government's own figures, from 1996 to 1997, farm income reported to the Commerce Department, reported by the Labor Department, went down 98 percent in North Dakota from 1996 to 1997. We all know there are many factors here. Low prices are a chief culprit. In addition to that, dramatically reduced production as a result of unusual weather patterns that have led to a massive outbreak of disease, so-called scab, which is really a fungus, which cost us a third of the crop in North Dakota last year.

Let me just say it is not just North Dakota that is affected. USDA has informed us that many States would benefit by such an indemnity payment; that North Dakota, South Dakota, and Minnesota would be key beneficiaries, but so, too, would Texas, Oklahoma, North Carolina, South Carolina, Mississippi, Alabama, and the State of Idaho, and many other States as well. In a few moments I will show a map of the United States and show the States affected.

What is happening is, in addition to all of those things, the so-called Asian flu is costing us our most important export market. And on top of that, our own Government is sanctioning other countries and, as a consequence of those sanctions, removing us from being able to sell into those countries. So the fundamental problem is a dramatic loss of income in many States in the country.

This chart shows that farm income has dropped in a majority of the States. We can see those that are over a 40-percent drop are in red. That is North Dakota, at 98 percent; Missouri, I think their loss is in the 40-percent range. You can see New York, Maryland, Virginia and West Virginia. These States have all suffered very dramatic income declines in the agricultural sector.

In addition to that, in orange are those States that have seen a 20- to 39-percent reduction in farm income: Minnesota, Wisconsin, Illinois, Kentucky, Tennessee, Pennsylvania, Maine and Connecticut are in that category, as well as Washington, Nevada and Utah out West. Those that are in the zero to 19-percent decline: Montana, Idaho, South Dakota, Iowa, Arkansas, Louisiana, Mississippi, Alabama, Georgia, South Carolina, North Carolina, New Jersey, Rhode Island, New Hampshire and Vermont.

Farmers are suffering in silence. It has not gotten a lot of attention, but it is nonetheless real and it is nonetheless urgent. We can see the change in income by major industry from 1996 to 1997. All of these major industries saw increases with one exception—agriculture saw a $3.4 billion decline. But we saw increases in mining—theirs were modest; in forestry and fishing, in transportation and public utilities, in construction, in wholesale trade, in government services, in retail trade, in finance, insurance and real estate, in manufacturing and services. Services, by the way, saw an enormous increase of over $100 billion as we move increasingly towards a service economy.

One of the key reasons that we have seen the steep drop in North Dakota and some of the other States is these very unusual weather patterns. In Texas and Oklahoma it is drought. In North Carolina it is hurricanes. In North and South Dakota and Minnesota it is overly wet conditions.

This is a picture of the North Dakota farm country. This picture, if you can see it, shows not the kind of dry landscape one would associate with North Dakota, but one sees water everywhere. We are swamped in North Dakota. When I say farm income has been washed away, that is exactly what has happened. Farmland can't be planted. That which has been planted is drowned out. That which isn't drowned out is suffering from a massive outbreak of disease that has cost a third of the crop last year, to this dreadful scab outbreak.

I wish we could say it was restricted to scab, but in addition to that we have white mold, now, attacking the canola crop. That will affect not only our State but Minnesota, Montana, and South Dakota as well.

These are an extraordinary set of circumstances with which our farmers are dealing, and it is forcing them off the land. We anticipate losing 2,000 farmers in North Dakota this year out of 30,000. The Secretary of Agriculture came to North Dakota 3 weeks ago and he had a disaster team that briefed him before the meetings. They told him, ''You could lose 30 percent of the farmers in North Dakota in the next 2 years''—30 percent. If that is not a disaster, I don't know what is.

It is not just North Dakota, although we are one of the hardest hit, but certainly Minnesota, South Dakota, Montana, and the other States I mentioned, Oklahoma and Texas, all were hard hit by drought, continuing drought; of course Florida with their fires, North Carolina with hurricanes, and we saw other States affected as well.

This is another picture of North Dakota. Again, everywhere you look—water. I was just in the southeastern part of our State, six counties. I met with a young farmer there. He had planted corn twice this year. Both times it drowned out. For mile after mile, we saw land under water, land that is not going to be planted again this year, land that has been not planted for 2 or 3 years. In that particular farmer's case, he had land he hasn't been able to farm for 4 years.

These exceptionally wet conditions in North Dakota, Minnesota, and parts of South Dakota are leading to perfect conditions for the breeding of this fungus disease—scab. That is not only reducing the production—as I indicated, we lost a third of the crop last year—but in addition to that, what you do harvest is then badly discounted when you go to the elevator to sell.

It is this combination of factors that is putting such a crunch on North Dakota agricultural producers. Again, as I say, it is not just our State but other States as well. It is very much related to a collapse in prices, very much related to natural disasters, very much related, in addition to that, to what is happening abroad. The collapse of the Asian financial markets is reducing demand for our products. That is where we sell most of our agricultural production. That is the fastest growing market for the United States, in Asia, and they don't have the funds to buy. As a result, we are seeing sharp reductions, sharp restrictions in agricultural exports.

This chart, I think, tells the story very well. It shows a 50-year pattern of spring wheat prices. These are all stated in 1997 dollars so we are comparing apples to apples. You can see we are about at an all-time low at the end of 1997. You see a long-term trendline of wheat prices coming down, but we are now at virtually an all-time low. If you then look at 1998, you see the pattern continuing. By June of this year, we are at a 50-year low for spring wheat prices. Wheat prices in North Dakota are now about $3.20 a bushel. To put that in some perspective, it costs about $4.50 to produce wheat, so you have an invitation to lose money if you are planting wheat.

Of course, the upper Great Plains are dominated by wheat production. It is not just wheat. We see exactly the

same pattern with respect to barley. Here is a 50-year trendline of barley prices, and you can see by the end of 1997, we were near a 50-year low.

If you go to this year, you can see what has happened this year—further price collapse—so that we are at a 50-year low. Prices for wheat and barley have not been this low in 50 years. When you then couple that with reduced production because of the massive outbreak of disease, what you have is an income collapse—as I showed in the first chart—an income collapse in my home State of North Dakota.

What does that mean? That means we are seeing record auction sales, as the little house on the prairie is auctioned off. That is what is happening in my State. It is a disaster. It is a calamity and something must be done.

We can debate at great length overall farm policy. We have differences on the question of long-term farm policy. I don't think we have differences on the question of responding to an emergency, and that is what we have. We have an emergency. It is a dire emergency, but we have very little ability to respond to it.

We did away with disaster programs for agriculture during consideration of the last farm bill and actually before that. We decided to do away with disaster programs and use crop insurance. The problem is, crop insurance does not work where you have multiple years of disaster. Even the head of the risk management agency has agreed with that proposition. In testimony before the Senate Agriculture Committee, he made very clear: Crop insurance, as currently constituted, does not work when you have multiple years of disaster.

Unfortunately, all across America, we see multiple years of disaster.

This chart shows where the losses have been most severe. As you can see on the chart, those areas that are in red are the parts of the country that have been hardest hit over the last period of time. You can see, yes, North Dakota and South Dakota and Minnesota hard hit, but we also see Oklahoma and Texas very hard hit and, of course, we go east and North Carolina and Virginia are very hard hit as well.

Interestingly enough, Pennsylvania; that is because they have been hit by tornadoes and have repeated losses as a result. But it is not just those States. You can see South Carolina, Georgia, Alabama, Mississippi—all of those States are badly affected. Go out west and the State of Idaho has been hard hit. This map doesn't reveal it, but there are parts of Montana hard hit as well.

This map doesn't reveal the individuals. This reveals the counties that are hardest hit. We also have many individuals, especially in the State of Montana, who have been hard hit by this same set of unusual conditions: Precipitous drop in prices, coupled with sharp drops in production because of natural disasters, weather disasters of one kind or another, and combined, they have led to an income collapse for many farmers in many parts of the country.

The question is, How do we respond? The idea has been we wouldn't have disaster programs for agriculture because we are going to use crop insurance. The problem is crop insurance doesn't work where you have multiple years of disaster. Some who are viewing may ask, Why is that? Why wouldn't crop insurance work if you have multiple years of disaster. Nobody knows better than the occupant of the Chair what the problem is. The problem with crop insurance is it is calculated based on your last 5 years of production. If you have 5 years of disaster, your production base erodes, it evaporates, and then you don't get much help from crop insurance. That is the fundamental problem that we have identified.

So how do you address it? What we are recommending is an indemnity program that will help make payments to those farmers who have had multiple years of disaster, who have had a sharp income decline, sharp losses in income so that they can get some assistance to carry over so that they will live to fight another day, so they can get through these depressed times and get on to better times.

Mr. President, we have worked with our colleagues on both sides of the aisle in terms of crafting a program that we think will be of assistance. Before I send that amendment to the desk, we are waiting for an evaluation on which one of the amendments best meets the budget requirements that the U.S. Congress is under. We are hoping for word on that very soon.

To sum up, this is a calamity. This is a disaster. This is an emergency. By the way, the President yesterday said he will support an emergency designation for an answer to what we are seeing across the country. The Secretary of Agriculture indicated he, too, will support an emergency designation, and that is critical so that we don't violate the budget caps.

The chairman of the Agriculture Appropriations Committee, Senator COCHRAN, and the ranking member, Senator BUMPERS, are under very sharp strictures with respect to what they can spend. They have allocations made to them. If we are going beyond that, we have to have an emergency designation. The President has indicated he is willing to make such a designation. I am hopeful that we will find the Budget Committee agrees as well. We are awaiting their word on that matter.

Mr. President, these sharp drops in farm income are certainly not isolated. It is not just North Dakota. The State of Missouri saw a very sharp drop, 72 percent drop there; Maryland, 44 percent drop; New York, 44 percent drop; West Virginia, 44 percent; Virginia, 42 percent; Minnesota, 38 percent; Wisconsin, the same; Nevada, 35 percent; Pennsylvania, a sharp drop, again, because of natural disasters with what is happening with tornadoes.

We also know that producers, on this map provided by USDA, in North Carolina have been very, very hard hit by a set of hurricanes. Of course, Oklahoma and Texas is burning up with this drought, and so many of their producers are under extreme economic pressure as a result.

I will enter into the RECORD a letter from the President. I will read from it before I send it to the desk. This is a letter sent to Leader DASCHLE yesterday. The President says:

> I am very concerned about the financial stress facing farmers and ranchers in many regions of the country. Natural disasters, combined with a downturn in crop prices and farm income, expected by the Department of Agriculture to remain weak for some time, cause me to question again the adequacy of the safety net provided by the 1996 farm bill. In some areas of the U.S., as many as five consecutive years of weather and disease-related disasters have demonstrated weaknesses in the risk protection available through crop insurance.

I think all of us who represent farm country certainly understand that. That is because of the formula. It is going to take us time to fix crop insurance. It is going to take a bipartisan effort to do that, but that takes time. Those of us who serve on the Agriculture Committee understand the complexities of reforming crop insurance. That is not going to happen this year. That is not going to be done in time to help these people who have been hit by repeated years of disaster and for whom the crop insurance system does not work. What we are saying together is we ought to move and fill in the difference, provide some assistance while we are waiting for crop insurance to be fixed.

The President said:

> Therefore, I am instructing the Secretary of Agriculture to redouble his efforts to augment the current crop insurance program to more adequately meet farmers' needs to protect against farm income losses. In the interim, to respond to the current unusual situations, I urge the Congress to take emergency action to address specific stresses now afflicting sectors of the farm economy.

He goes on to say:

> I agree with the intent of Senator CONRAD's amendment and recommend that funding to address these problems be designated as emergency spending. A supplemental crop insurance program for farmers who experience repeated crop losses, a compensation program for farmers and ranchers whose productive land continues to be under water, and extended authority for the livestock disaster program are examples of the type of emergency actions that could help farmers and ranchers.

Well, amen to that. I certainly thank the President for recognizing the extraordinary economic stress our farmers and ranchers are under.

The President concludes by saying:

> I am confident that you and your colleagues share my concern for American farmers and ranchers who are experiencing financial stress from natural disasters and low prices, exacerbated by the global downturn in agricultural trade, and I encourage

the Congress to take emergency action quickly.

Mr. President, I ask unanimous consent that the letter from the President be printed in the RECORD.

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

THE WHITE HOUSE,
Washington, July 15, 1998.

Hon. THOMAS A. DASCHLE,
Minority Leader, U.S. Senate,
Washington, DC.

DEAR MR. LEADER: I am very concerned about the financial stress facing farmers and ranchers in many regions of the country. Natural disasters, combined with a downturn in crop prices and farm income, expected by the Department of Agriculture (USDA) to remain weak for some time, cause me to question again the adequacy of the safety net provided by the 1996 farm bill. In some areas of the U.S., as many as five consecutive years of weather and disease-related disasters have demonstrated weaknesses in the risk protection available through crop insurance.

During the debate on the 1996 farm bill, I encouraged Congress to maintain a sufficient farm safety net, and since its enactment my Administration has repeated that call, proposing measures to buttress the safety net that are consistent with the market-oriented policy of the 1996 farm bill. The 1994 Crop Insurance Reform Act established a policy of improving the crop insurance program in order to remove the need for ad hoc disaster payments. This commitment to crop insurance as the preferred means of managing crop loss risks was reaffirmed in the 1996 farm bill. Farmers have responded to this policy by maintaining their enrollment in crop insurance at very high levels, especially in the Northern Plains states.

Therefore, I am instructing the Secretary of Agriculture to redouble his efforts to augment the current crop insurance program to more adequately meet farmers' needs to protect against farm income losses. In the interim, to respond to the current unusual situations, I urge the Congress to take emergency action to address specific stresses now afflicting sectors of the farm economy.

I agree with the intent of Senator Conrad's amendment and recommend that funding to address these problems be designated as emergency spending. A supplemental crop insurance program for farmers who experience repeated crop losses, a compensation program for farmers and ranchers whose productive land continues to be under water, and extended authority for the livestock disaster program are examples of the type of emergency actions that could help farmers and ranchers.

It is also crucial that the Congress provide the level of funding proposed in my FY 1999 budget in the regular appropriations bills and that the Congress pass the full IMF package to support the efforts of American farmers.

I am confident that you and your colleagues share my concern for American farmers and ranchers who are experiencing financial stress from natural disasters and low prices, exacerbated by the global downturn in agricultural trade, and I encourage the Congress to take emergency action quickly.

Sincerely,

BILL CLINTON.

Mr. CONRAD. Mr. President, I say to my colleagues, I will relinquish the floor at this point and await the word from the Budget Committee. We are expecting it momentarily. So I relinquish the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. COCHRAN. Will the Senator withhold the request?

Mr. CONRAD. I am happy to.

Mr. COCHRAN. I say to the distinguished Senator from North Dakota, I appreciate very much his going forward and offering this amendment. We have been discussing the amendment and the problems that he identifies as emergency problems because of drought and other problems throughout the agricultural sector. We are very sympathetic to these problems and the need for Congress and the President and the Department of Agriculture to act in a positive way and in an effective way to address these problems and to try to help solve them.

We have been advised there may be a problem with the Budget Act in getting an amendment, as drafted, approved in the Senate without having the amendment subject to a budget point of order. We have discussed this with the chairman of the Budget Committee. And there are other Senators with whom we have discussed the problem as well.

There is a lot of concern on both sides of the aisle that we have a bill for agriculture appropriations that takes into account all of the problems we have in the country, and that we respond in a thoughtful way. We are continuing to work on this issue. I want Senators to know that I hope we get it resolved so we can approve an amendment of some kind to provide relief, such as that sought in the amendment of Senator CONRAD.

But while we await further negotiations on this subject, I agree with the Senator that we probably should suggest the absence of a quorum. Some Senators are away from the Capitol right now who want to be involved in this discussion. I expect we will be able to make progress on it in the early part of the afternoon.

If there are other amendments that can be offered by Senators, we would encourage Senators to come to the floor to offer those amendments. We could set aside this amendment for that purpose to receive other amendments. And some of them may be agreeable. We are willing to work with all Senators. We appreciate the assistance we have had from many today indicating a willingness to reach agreement on proposed changes to the bill. I am hopeful we can complete action on the bill today, and I pledge to Senators that I will work very hard to try to help make that a reality.

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

The PRESIDING OFFICER (Mr. HAGEL). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

HEALTH CARE

Mr. GRAMM. Mr. President, I notice no one is on the floor debating this bill, so I thought I would take the opportunity to say a little bit about health care. I understand our President has come to Capitol Hill today to tell us about how, having rejected his proposal to take over the health care system 4 years ago, we now ought to join the President and Senator KENNEDY in letting the Government tell us how to run that health care system. Obviously, we are always flattered when the President comes to Capitol Hill to talk to us, to tell us about his views.

I want to make a couple of things clear. Yesterday, we offered the Republican alternative. The Republican health care proposal is superior in a lot of ways, but there are several ways that I think are very important. No. 1, we don't preempt States in those areas where they have already acted to deal with problems in providing health care. We differ with the President and with Senator KENNEDY in that we don't believe we know more about the interest of each individual State than their Governor and their State legislature do. What we do in our alternative proposal is deal with the parts of the problem that the Federal Government has jurisdiction over.

I notice the President and some of our colleagues made a big point out of the fact that their bill affects 140 million people, whereas our bill affects a smaller number. Why is that? The reason our bill affects a smaller number is, in those areas where the States have the power to deal with their own medical problems, we don't get involved in telling them how to do it. In those areas where they don't have jurisdiction because of ERISA, then we step in and try to deal with the problem.

We differ with the President on the whole issue of how to deal with the denial of services. The President says we can improve the situation by taking it to court. The President and Senator KENNEDY say it is indispensable that we give people the power to sue. We think there is a better way. We think the better way is setting up an appellate process on an expedited basis, both internal and external, to an HMO so that people can get a resolution. What happens when you take it to court is that it really does not solve the problem that you are trying to deal with. It may, after the fact, put money—most of it in the hands of a lawyer, maybe some of it in the hands of the patient.

I assert that when a mother has a sick baby she wants medical attention for the infant. She doesn't want the ability to go out and hire a lawyer and go to court and 2 years later get a judgment when it is too late to deal with the health care concerns of her baby. We believe we need to get a resolution in 72 hours on those issues rather than

going into court, exploding the cost of health care, and denying millions of Americans their right to health care.

We also believe in freedom. Here is the problem as stated very simply. We have a situation today where there is only one part of our health care system where anybody has any incentive to control cost. That is in the health maintenance organization, the HMO. Twenty years ago, very few people, outside of a very small number of States, were enrolled in HMOs. In the last 25 years, we have had an explosion of enrollment because the cost of health care has literally skyrocketed. The positive effect has been that for the first time since 1965 we have brought the cost of medical care and its growth below the Consumer Price Index. For the first time since 1965, we are not pricing blue-collar working families in America out of the health care market. That is the good news.

The bad news is that a lot of Americans are unhappy about a system where they have to get approval from the HMO in order to get certain kinds of treatment. I liken it to the situation where you go into the examining room and you expect to be in the examining room with only your physician and you find that you have a gatekeeper in the examining room with you.

Now, Senator KENNEDY's solution, President Clinton's solution, is to put a government bureaucrat and a lawyer in the examining room with the gatekeeper, with your doctor, and with you. That way, the government bureaucrat can be there to regulate the gatekeeper and the lawyer can be there to sue the doctor.

We believe there is a better solution. The better solution is something we call medical savings accounts.

I have two cards here. One is from the Mellon Bank. It is a medical savings account on MasterCard. The other is with American Health Value, and it is a medical savings account on Visa. How the medical savings account will work is, for the first time it will empower the individual family to make their own health care decisions and to control cost. How will it do that? It will do it in the following way: Say today that your family has a Blue Cross-Blue Shield policy, family of four, and that Blue Cross-Blue Shield policy costs $4,000 a year. If they had standard option, Blue Cross-Blue Shield, that would be about the average cost. That Blue Cross-Blue Shield policy gives you very low deductibles. Under the medical savings account, you would buy the Blue Cross-Blue Shield policy with a $3,000 deductible and it would cost about half as much as it costs now. You would take the $4,000 that your employer is currently spending, $2,000 would buy the high-deductible insurance policy and $2,000 would go into your medical savings account. Then, you would take the $1,000 that is typically spent annually on premiums and deductibles and deposit that in the medical savings account, adding it to the $2,000 contributed by the employer. Then you would make the health care decisions on when and how to spend that first $3,000 of health care. After meeting that deductible, your health insurance policy would kick in and cover all remaining costs.

Now, there are two things that are very important about this program. One is, you have an incentive to be cost conscious; the other is, you are in charge.

Under Senator KENNEDY's proposal and under the President's bill, if you call up the gatekeeper and you can't get to see your doctor, you can then call a government bureaucrat and you can talk to him, he talks to the gatekeeper, and then if you can't see your doctor, then you can call a lawyer, who will talk to the Government bureaucrat and the gatekeeper, and he might file suit, and 2 years from now you might get a resolution. That is the Kennedy–Clinton alternative.

Here is our alternative: When you want to see your doctor, under the medical savings account, you pick up your card and you pick up the phone and you make the decision: Do you need a general practitioner? Is it an OB/GYN? Should you call a pediatrician? Is it Dr. Frist, who does heart and lung surgery? You pick up the Yellow Pages, you call the doctor of your choice, and you have to ask only one question—not, ''Is it approved?'' or, ''Are you at our point-of-service option?'' Your simple question is, ''Doc, do you take Mastercard or Visa, or do you take a check?'' If he takes Mastercard, Visa, or a check, you walk into the doctor's office and you make the choice for yourself.

Now, which would you rather have? Would you rather be alone with your doctor in the examining room, where you are in control, because you have the ability to give him your medical savings account credit card, without anybody saying ''yes,'' ''no,'' or ''maybe''? Or would you rather go into the examining room with your doctor, with the gatekeeper from the HMO, with a Federal bureaucrat, and with a lawyer? I think most Americans would rather do it themselves. They want to get everybody out of the examining room, except their doctor. They want the freedom to choose.

The Republican health care bill gives them the freedom to choose, because it empowers them.

Now, as I said yesterday, Senator KENNEDY and the President are as afraid of this credit card, this Mastercard and this Visa, they are as afraid of these cards as a vampire is afraid of a cross. They fear these cards because they fear choice, because they know that if we empower families to make their own health care decisions, they will never, ever tolerate the Federal Government taking over and running the health care system. And we know that, deep in their hearts, the President and Senator KENNEDY want the Government to take over and run the health care system, and they want the Government to run the health care system because they ''feel our pain,'' and they believe that the Government could do it better. They know that if they could make everybody go to a Government-run health care system, it would all work better, and that the Government would be caring, and that a Government that does not work well in any other area of our lives would be magic in health care. And so they give us the alternative, which is to regulate HMOs so that they can't control costs, so that then we can have one HMO—the Government HMO—and it, of course, will control costs, because when it says ''no,'' you have nowhere else to go.

I do think it is an incredible paradox that the same people who, 4 years ago, wanted to put every American family into a Government-run HMO, where the government would have had absolute authority to say ''yes'' and ''no,'' now they want to tell private HMOs how to be run, and they suddenly are concerned that HMOs have too much power.

We have an alternative, and the alternative is to take the power away from HMOs and give it to families. Let families have medical savings accounts so that they can determine which doctor they go to see and they can decide when they go.

Finally, I want to respond to two charges that are made by the Democrats against medical savings accounts. The first one is that they are for rich people. Well, why would rich people need or want high-deductible insurance? They can buy any insurance they want. But if you cut the cost of health insurance in half, you let working families, for the first time, have coverage for those expenses when they have to go to the hospital, or when something terrible happens. Working families can begin, over the years, to build up their medical savings account until they have the same kind of coverage everybody else has. Medical savings accounts cut in half the cost of the insurance you really need and have to have. That is not for rich people, that is for working people.

Secondly, the charge is made that only people who are healthy will go into medical savings accounts. I think exactly the opposite is true. If you have a chronic health problem, do you want to go to an HMO where some gatekeeper makes the decision about your health care? It seems to me that if you have a chronic health care problem and any morning you might wake up with a life-threatening illness, you would much rather be in a position, instead of calling the gatekeeper, the Government, a lawyer, or a Government bureaucrat, to call up a doctor and say, ''I would like to come in. Do you take Mastercard or Visa?''

So I think we have a very clear choice, and we are ready to vote. We are glad the President has come to Capitol Hill to tell us, once again, that he knows what is best for our health

care. Four years ago, he told us he wanted the Government to take over and run the health care system, and we listened with respect and reverence, and we said ''No,'' and the American people said ''No,'' with an expletive in front of the ''no.''

Now the President is telling us, 4 years later—he appears before Government employee groups and says, ''I haven't changed my mind; I still want the Government to take over and run the health care system, only we have to do it one step at a time.'' It seems that he believes the next step is to let the Government run the HMOs. How does he think that make the patient better off? Well, it presumable makes the patient better off because when we go into the examining room with the doctor and the gatekeeper, a Federal bureaucrat and a lawyer will now join us. I don't think that is what people want. People want to be alone in the examining room with their doctor.

The Republican plan, which empowers the family to decide, puts only the patient and the doctor in the examining room. It throws out the Government bureaucrat, it throws out the lawyer, it throws out the gatekeeper, and it replaces all of that mechanism of Government bureaucracy with one simple question: ''Do you take Mastercard, or do you take Visa, or do you take a check?'' If the answer to any of those questions is ''yes''—and it will be yes to all three—then you go to the doctor of your choice.

That is our alternative. It is a better alternative. That is why we are going to defeat the President and Senator KENNEDY once again. The American people do not want a Government-run or a Government-controlled health care system, and we can give them an alternative. The alternative is freedom.

Once again, America is at a crossroads. We are going to have to choose. Do we believe the solution to our problems in medicine will be found with more Government interference, with more time in court, with more time working under the control of Government bureaucrats? Or do we believe the solution is to be found in freedom? Well, I am going to bet the future of my family and the future of the 19 million people in Texas, who hired me to represent them in the Senate, on freedom because I know freedom works, and I know something else—I know Government does not work.

Four years ago, the American people didn't want Government to run the health care system, and today they don't want Government to control the health care system. So Republicans and Democrats agree on one thing: There are problems in the health care system. But where we disagree is, we want to empower families with innovations like medical savings accounts, and the President and Senator KENNEDY want to empower the Federal Government. That is the choice. It is a clear choice.

I yield the floor.

Mr. COCHRAN. 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. Without objection, it is so ordered.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

The Senate continued with the consideration of the bill.

Mr. DORGAN. Mr. President, in a few minutes Senator CONRAD from North Dakota will send an amendment to the desk on behalf of himself and myself and some others that will deal with an indemnity program, an amendment that I think he has already described to Members of the Senate. I think this is one of the most important amendments we will vote on on this bill while it is on the Senate floor.

I want to just describe again, as I think my colleague has and I have on other occasions, what causes us to feel the need and the urgency to respond to an agricultural crisis. The agricultural crisis is occurring in a number of States in our country in a way that is causing family farmers to lose their farms, to have the auction sales, to sell out and lose their hopes and dreams. We feel that because of collapsed prices and rampant crop disease, and other things which are not the farmers' fault, that we ought to do something to extend a helping hand and say to them that we want to help them over this tough period.

I would like to show my colleagues a map that describes the problems we have had in North Dakota for family farmers. The red represents counties that have been declared disaster areas every year for 5 straight years. All of these counties have been declared disasters every year for 5 years in a row. That means if you are farming here, or here, any one of these areas, you have been out there farming in an environment and in a climate in which there is, in most cases, a devastating wet cycle with you being prevented from planting because the fields are full of standing water that has not left and has not absorbed, and if you did get a crop in, you have had it devastated by the worst crop disease in this century in North Dakota.

The orange have been declared disaster areas for 4 years out of 5 years, and the yellow, 3 years out of 5 years,. The farmers in these areas have confronted a disease called scab. This picture doesn't mean much to a lot of folks. But it is the picture of a field of hard red spring wheat infested with scab disease. It is called fusarium head blight. But it is a devastating disease that decimates the quality of this crop, so that when and if the farmer gets a crop and hauls it to market, the farmer discovers it is worth very, very little.

The cereal scientist, Bryan Steffeson, said, ''I have never faced anything as tough as fusarium head blight. Make no mistake about it. This is the worst plant disease epidemic that the United States has faced with any major crop during this century.''

This is very unusual and devastating to the pocketbooks of family farmers.

With respect to wheat, I just described the previous chart; with respect to barley, the same plant scientist says, ''North Dakota's barley industry is hanging by a thread, even though it is typically the leader in feed malting barley products.''

As a result of crop disease and collapsed market prices, our farmers' incomes in North Dakota dropped 98 percent in 1 year—a devastating drop in income. And I think almost anyone can imagine if, in their neighborhood, or on their block, or among their friends, they had a 98-percent drop in income, they would understand this is very, very difficult to live through. A lot of family farmers aren't able to survive it. The result is they are forced off the farm and forced to sell out.

This was in the New York Times accompanying a story on July 12. ''Across the northern tier, farmers' income drops.'' And it says we have a problem with farm income dropping in Montana, North Dakota, South Dakota, Nebraska, Minnesota, Wisconsin, and elsewhere. The point of that is that this is a pervasive, difficult problem that requires an urgent response.

The Fargo Forum in an editorial yesterday indicates that, ''The crisis in farming is for real. The social and economic damage piling up in farm country cannot be minimized. Politicians who believe the revolutionary Freedom to Farm law is working should spend some time in rural America, especially in the upper Midwest.''

This is a paper, incidentally, that has editorialized in favor of the Freedom to Farm bill. They say that it needs some adjustments and changes. You can't ignore that.

They say at the end of this editorial, ''The least Congress can do now, while in the longer term enlighten lawmakers to revisit and revise the Freedom to Farm, is to try to pass some type of supplemental legislation that would respond to urgent needs for some payments in farm country.''

A number of us, led by Senator CONRAD, and joined by myself and others, have worked on a program that would provide the opportunity for some indemnity payments, which is just another way of saying those farmers who have had their income washed away would be given some short-term interim help with the passage of this amendment. The amendment would provide up to $500 million for the Indemnity Payment Program.

It is supported by President Clinton. We were meeting at the White House yesterday with President Clinton. My colleague, Senator CONRAD, myself, and a number of others from farm country, received a letter from President Clinton that describes in writing what he told us personally yesterday during the meeting—that he supports the amendment we are offering now, and it is part of a three-pronged approach that he himself espouses: No. 1, a supplemental benefit program of the type we have described, an indemnification program; No. 2, compensation for farmers who have flooded lands; and, No. 3, extended authority for emergency livestock needs.

Mr. President, I mentioned earlier—I want to say again—that this is not a political or a partisan issue. Out in the country they don't drive Democratic or Republican trucks. They don't pull Democratic or Republican plows. They are only family farmers trying to make a living in a very difficult set of circumstances. They are some of the hardest working Americans. They get up early, work hard all day, and go to bed late. They risk everything they have. Everything they have is on the line—all of their hopes, all of their dreams—and all of their savings are invested in a crop that might or might not grow. If it is grows, it might or might not yield them an income that allows them to repay the expenses they incurred to put in the crop.

That is the nature of family farming. I think family farmers have always understood that risk and always accepted that risk. But they have always hoped. And they have sometimes been the recipients as a result of that hope that when times are tough, when the bottom falls out, when prices collapse, when they are hit with devastating crop disease, that somehow there would be a basic safety net to try to be helpful to them to allow them to get over those price valleys; some kind of a bridge to allow them to cross that difficult period.

If you are a very, very large corporation, you can cross that price valley. Things get tough, you can tighten your belt, and you can survive. But the thin financial nature of a family farm often cannot cross that price valley. When prices collapse, or disease conspires, then there must be some kind of a bridge, some kind of mechanism of support that says, ''Let us step in and help.''

That is what the amendment offered by Senator CONRAD, myself, and others will do. It simply says, ''Let us step in and provide some help to respond to a growing and urgent farm crisis.''

Mr. President, with this, I would yield the floor. I believe we are close to having the amendment in order to send to the desk. When we do, I believe that Senator CONRAD, a couple of others, and I will make brief additional comments. We would hope very much that our colleagues will respond favorably to this.

We think it is thoughtful. It is supported by the President and it is supported by the Secretary of Agriculture. Editorially it is supported by newspapers that support the Freedom to Farm bill, because the editorials, others, and family farmers recognize this need is urgent and the response to it cannot be delayed.

Let me commend my colleague, Senator CONRAD, with whom I am privileged to work. We work on a lot of issues together but none more important than the issue of trying to respond to and to help family farmers survive during times of crisis and times of urgent need. His leadership and efforts on this legislation are significant.

I am pleased to be a part of the effort today to offer this amendment, and I hope for the favorable consideration of our colleagues.

I yield the floor.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

AMENDMENT NO. 3173

(Purpose: To provide funds for and improve the reserve inventories program)

Mr. CONRAD. I thank my colleague, Senator DORGAN, who has been with us every step of the way in developing this amendment, in offering it to our colleagues and persuading others to support it, and in convincing the White House that this is an emergency matter.

I am very pleased with the outcome of the meeting we had yesterday. I think there is a real sense of urgency not only by the President but by the Secretary of Agriculture and others in the administration who recognize that in many parts of the country we are simply faced with a collapse of income as a result of badly depressed prices, and in addition, a loss of production because of natural disasters that have taken many forms in many places—as I described earlier, monsoon conditions in North Dakota and Minnesota and parts of South Dakota, but, on the other hand, terrible drought in Oklahoma and Texas; and then perversely in the eastern part of the United States, hurricane activity that has had a devastating effect on North Carolina and Virginia. And I was just talking to a Senator from Pennsylvania; they have also been hard hit. So this amendment would move to provide resources to provide assistance to those areas.

Now, some may say, gee, I thought we put crop insurance in place so we didn't have to have this kind of program. And that is precisely right. Unfortunately, what we have discovered is the Crop Insurance Program we put in place does not work when you have multiple years of disaster. And the reason for that is the formula. The formula in crop insurance looks at your last 5 years of production. If you have had 3 to 5 years of disasters, whether it is drought, whether it is overly wet conditions, whether it is a terrible disease outbreak as we faced in North Dakota, or hurricanes as they have faced in the East, your base for crop insurance is so badly depressed it does not provide the risk management tool that all of us intended.

I was just talking to the Senator from Idaho, who is one of the most knowledgeable members of the Agriculture Committee with respect to this matter, and he was saying what we see is that when the base goes down, crop insurance cannot provide the coverage we all intended.

We are not going to get crop insurance reform this year, as much as many of us would like to do; that simply takes a longer effort. And so, Mr. President, until crop insurance gets fixed, something has to be there to allow farmers to survive. If we do not, we are going to have a calamity of staggering proportions.

USDA tells us in North Dakota that we are going to face potentially the loss of 30 percent of our farmers in 2 years—30 percent. That is a disaster by any description.

So what we have tried to do is work in a way that is not subject to a budget point of order, that does provide assistance to these farmers all across the country.

We have now received a letter from the Executive Office of the President, the Office of Management and Budget, which indicates that this amendment would not be subject to a point of order, that this would qualify for an emergency designation, and the President supports an emergency designation for this legislation. We will submit that for the RECORD when we have a chance to actually submit the language. It is being typed now.

We have it. The final provision is here. We will send that to the desk. We need to get copies distributed to our colleagues.

The Budget Committee of the Senate has informed us this would not be subject to a budget point of order.

I ask unanimous consent that there be printed in the RECORD the letter from the Office of Management and Budget, the Executive Office of the President, indicating that they, too, agree that this qualifies for an emergency designation and would not be subject to a budget point of order.

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

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,

Washington, DC, July 16, 1998.

Hon. KENT CONRAD,
U.S. Senate,
Washington, DC.

DEAR SENATOR CONRAD: This responds to your request for the views of the Office of Management and Budget (OMB) on whether your proposed amendment relating to farm payments under 7 U.S.C. 1427a qualifies for the emergency adjustment under the Budget Enforcement Act (BEA).

Section 251(b)(2)(A) of the BEA provides that an adjustment in the discretionary spending limits shall be made for appropriations designated as an emergency by Congress and the President. That section also

states that the designation is not available for ''appropriations to cover agricultural crop disaster assistance.''

We have examined your proposed amendment, and we are of the view that it qualifies as emergency relief under Section 251(b)(2)(A) and is not an appropriation to cover agricultural crop disaster assistance. Your amendment would provide funding for the reserve program established under 7 U.S.C. 1427a. That program is designed to establish a reserve of certain crops through the price support program. The purpose of purchasing the commodities is to hold a reserve that then may be disposed of to relieve distress at a later time. The purpose of the program is to establish a reserve of crops for future use, not to make assistance available to the producers from whom the crops are purchased. Thus, it is OMB's view that the funding does not provide ''crop disaster assistance'' within the meaning of Section 251(b)(2)(A), and the adjustment provided by that section for emergencies may thus be applied to the funding in your amendment.

Sincerely,

ROBERT G. DAMUS,
General Counsel.

Mr. CONRAD. Mr. President, we are ready for any additional debate, and we are ready to move, after people have had a chance to speak, to a vote at a time that the chairman of the committee thinks is appropriate.

Mr. COCHRAN. Mr. President, I think we are at a point now where we can ask the question, What is the will of the Senate? Because that is the question. We have an amendment here that proposes a new program of spending based on an emergency of about one-half billion dollars. I think that is the number. Five-hundred million is the total projected cost of the bill, but it is based on an emergency that is declared in this legislation to exist in agriculture. We understand the President has agreed that there is an emergency, not specifically that this amendment describes that emergency, but that a response should be made by the Government to deal with this problem.

Now, I know that there are Senators who are wondering, well, what are the criteria? How are farmers going to be declared eligible to participate in payments under this program? There are questions that are very legitimate and, frankly, this legislation does not tell us much about that. It is leaving a lot of discretion in the hands of the Secretary of Agriculture. That is very clear. And this amendment could be subject to the criticism that it is too much, there is too much discretion. I am confident the department would have to issue regulations and describe some program payment benefit scheme that farmers would have to be governed by in terms of applications and eligibility.

So there are some legitimate questions that can be asked. I am willing to listen to the advice of other Senators and be governed by the will of the Senate on this issue. I do not want to reject this out of hand and say that it is not a good amendment. I think it is based on a legitimate interest in helping deal with very real problems that exist in certain parts of the country, primarily in North Dakota, South Dakota, Minnesota, where half the payments are projected to occur under the amendment, but there are other States as well. We know that Texas, Oklahoma, and Colorado would be eligible. We know that southern-tier States, parts of States in the Southeast, North Carolina, in addition to South Carolina; there are some parts of my State, I am told, that would benefit from the legislation.

So it is time now in the consideration of this amendment for Senators to take a look at the proposal and come to some consensus on what to do about this. We can accept the amendment on a voice vote, the managers could accept the amendment, if that is the will of the Senate, or if some Senators want to have a record vote on the amendment, we could do that. I had been told earlier that this amendment would probably be subject to a budget point of order in that it would violate the Budget Act. But because of changes the drafters, the authors of the amendment have made within the language, I am advised that the Budget Committee staff director has told us there is no violation of the Budget Act. That could be confirmed by a statement from the chairman of the Budget Committee, and I would like for him to tell us that formally before we make a decision on whether a point of order would be made on the basis of the Budget Act.

Those are my reactions to the proposal, and I will await other Senators coming to the floor to let us have some suggestions and guidance about how to proceed at this point.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I thank the Senator from Mississippi, the chairman of the Agriculture Appropriations Subcommittee, for the gracious way he has allowed us to work through this. He has been very patient, and we thank him very much for his patience. We also thank him very much for his open-mindedness. I think he does recognize there are real problems around the country. Unfortunately, we do not have the perfect tools to deal with them. The Senator from Mississippi raises questions that are absolutely legitimate questions: What kind of system would be used to use these funds?

This is not a new program in the sense that this is replenishing a program and an authority that the Secretary has had. This is a program that the Secretary has utilized. And those funds are now depleted.

The way it was done in the past was to use actual commodities, but one thing we have learned is, it is really much more efficient to use money in that fund rather than commodities, because when we use commodities, we find that about 25 percent of what is used is used up in distribution costs, in handling charges, and the rest. So USDA, in examining this, has said it would be much more taxpayer friendly, really, to have money in this fund that is now depleted rather than to have commodities.

We are using the same model we used for the Livestock Indemnity Program last year; that is, to give the Secretary broad discretion, because when you sit down and try to write the specifics here on the floor with this relatively short period of time, we have discovered there are a series of problems. One of them is, we would probably become subject to a budget point of order. So we find doing it this way, with the general authority of the Secretary that he already has, which is recognized, but we restore the fund, we replenish the fund that has been depleted so the Secretary has the ability to respond to these various circumstances around the country.

It is not one set of events that is affecting us. We have one set of events in North Dakota and Minnesota and South Dakota, and the Senator is exactly right, we would get a significant portion of this. But other parts of the country as well—in Texas and Oklahoma it is a drought; in North Carolina, where they have been so badly hit, and Virginia, it is hurricanes. In Pennsylvania, the Senator from Pennsylvania tells us, it is a combination of factors. In Idaho, it is much the same thing that has been happening in these northern-tier States; they have, in many cases, overly wet conditions.

But combining it all, we have a natural disaster and we have price collapse. What is happening is, we are left with dramatically reduced farm income that is forcing people off the land. The question is, Do we act? Do we do something? Do we provide the tools to respond? I think the will of the Senate will be, as it has been in the past: Yes, we should respond. We have a chance to do that.

I also will indicate, in the amendment I sent to the desk, the original cosponsors are Senator DORGAN and Senator CLELAND. I welcome other Senators. I am very hopeful this is a bipartisan enterprise. I have been talking to Republican Senators over the last several weeks about this matter, and I very much hope they join in and we make this a fully bipartisan effort. They certainly have contributed thoughts to what we could do here.

So I hope, before we reach conclusion here, we have a healthy number of Senators on both sides of the aisle who cosponsor this legislation, that we join together and say, ''Yes, there are problems out there. Let's address them. Let's provide some assistance.''

This does not mean we are voting on overturning agricultural policy. We have differences there. We recognize those differences. This is one case where we are rising above those differences to march together and try to help those who clearly are in need.

I yield the floor.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. CONRAD], for himself, Mr. DORGAN and Mr. CLELAND, proposes an amendment numbered 3173.

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

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

The amendment is as follows:

On page 29, after line 21, add the following:

RESERVE INVENTORIES

For the reserve established under section 813 of the Agricultural Act of 1970 (7 U.S.C. 1427a), $500,000,000: *Provided,* That the entire amount shall be available only to the extent that the President submits to Congress an official budget request for a specific dollar amount that includes designation of the entire amount of the request as an emergency requirement for the purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900 et seq.): *Provided further,* That the entire amount of funds necessary to carry out this paragraph is designated by Congress as an emergency requirement under section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(A)).

On page 67, after line 23, add the following:

SEC. 7___. RESERVE INVENTORIES.

Section 813 of the Agricultural Act of 1970 (7 U.S.C. 1427a) is amended—

(1) in the first sentence of subsection (a), by inserting ''of agricultural producers'' after ''distress'';

(2) in subsection (c), by inserting ''the Secretary or'' after ''President or''; and

(3) in subsection (h)—

(A) by striking ''(h) There is hereby'' and inserting the following:

''(h) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are''; and

(B) by adding at the end the following:

''(2) USE OF FUNDS FOR CASH PAYMENTS.—The Secretary may use funds made available under this section to make, in a manner consistent with this section, cash payments that don't go for crop disasters, but for income loss to carry out the purposes of this section.''.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, Let me make two points that I think Senator CONRAD and I and others would want to make. One responds a bit to some comments made earlier.

The potential benefits of this amendment would be available to people in a range of areas of the country who have suffered, in one form or another, substantial income loss and are going through an agricultural crisis. That includes Texas, South Carolina—a whole range of areas of the country. But I want to make it clear, this is not simply an amendment that would target one or two or three States. Farmers in many other parts of the country who face similar circumstances and a similar crisis would be eligible.

Second, and I think most important, while there has been a lot of discussion on the floor of the Senate about agricultural policy, I think it is important to make clear, this amendment is not a substitute for or a denial of the interest many of us have in some of the arguments that have been offered and proposed in recent days by others on the floor about the increased need for additional effort in trade. Some of our colleagues have stood on the floor and talked about the need for moving American grain overseas, for additional efforts in trade, additional use of the Export Enhancement Program, and other things. I support all of that.

I think we ought to be more aggressive with respect to Food for Peace. I have mentioned that there are people starving around the world: A million people to a million and a quarter people face starvation in Sudan today. We can and should, in my judgment, with the quantity of grain we have, substantially increase shipments under title II and title III of Food for Peace.

We can and should be more aggressive with the use of the Export Enhancement Program. We can and should be more aggressive with a range of other programs. The Secretary of Agriculture, I would say, has been very aggressive with the GSM program and others. But I would like our country to meet competition anywhere around the Earth. If the European Union wishes to deeply subsidize its grain and attempt to take markets away from this country, we ought to go to those markets and meet them and compete and win that competition. If that requires export subsidies to meet what the Europeans are doing, then so be it; that is precisely what we should do.

So, those who insist on a much more aggressive approach in international trade will find no quarrel with me. I believe we should have a more aggressive posture with respect to trade issues. That is one, but only one, of the issues we need to address.

Another of the issues we need to address is the issue of emergency response in times of crisis to farmers, particularly in some areas of the country that have seen almost a total collapse of their income. That is the purpose of the amendment we have sent to the desk.

I, too, listened carefully to the Senator from Mississippi. I think he is an awfully good legislator. He is certainly fair. I hope we can achieve some bipartisan support here in this Chamber on this kind of legislation. I don't think there is any pride of authorship here either. My expectation is that in the coming period we will be able to discuss some of the specifics of this legislation and perhaps reach a conclusion on it.

With that, I know my colleague from Montana is here, although he apparently is not going to speak at this point. Let me yield the floor to the Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, last night, after we had our last recorded vote, there were two amendments which we discussed and recommended to the Senate that we accept and they were accepted, one of which was offered by the Senators from Florida. Senator GRAHAM offered an amendment, it was cosponsored by Senator MACK, and it dealt with disaster problems that exist in Florida because of the recent wildfires that we are all familiar with because we saw these vividly photographed on television. For days and days, fires raged throughout the State of Florida. As a result of that, the Senators are asking that emergency funds be made available to compensate victims of that disaster who were involved in agriculture. I invite the attention of the Senators to the record of the discussion of that issue last night.

The proposal was to make available funds from the account that has been described by the Senators from North Dakota. There is no indication right now, from the Department of Agriculture, whether or not the disaster fund that is discretionary with the Secretary has been depleted to the extent that replenishment is necessary in order to compensate the victims in Florida. What I said during the discussion of the amendment involved an assurance that we would receive from the Department of Agriculture and the President a supplemental request for funds to replenish that discretionary disaster fund of the Secretary's, so that appropriate disaster relief could be made available to agriculture producers and others who are eligible for those funds. That satisfied the Senators from Florida, and, on that basis, the amendment was accepted by the Senate.

I am prepared to make the same suggestion to the Senate on this amendment. There is no question that there are differences, however—one of which is that farm producers would have to show that, out of 3 of the last 5 years, there had been declarations declaring disasters, either by the Secretary of Agriculture or the President, in the areas where eligibility would be considered to have been established.

At least that is what I understand the amendment provides.

The point is this: The year is not over. This fiscal year that we are appropriating money for right now begins on October 1. We don't know what the full needs for agriculture producers around the country will be by the time we get to the beginning of the fiscal year.

I am suggesting that it may be appropriate to take this proposal to conference with the House and await the receipt from the President or the Secretary of Agriculture of specific requests for supplemental funds beyond that requested in the budget that has already been submitted by the administration for next year that they foresee will be needed to replenish the Disaster Assistance Discretionary Fund of the Secretary to compensate disaster victims for their losses.

There are other programs available to provide benefits, Senators realize. There are crop insurance programs, there are other assistance programs that are authorized in the 1996 farm bill.

As I understand it, this does not create a new disaster assistance program,

and because it doesn't, it is not subject to a budget point of order.

I am mentioning that idea that I have as an alternative way of considering this and would like to have the benefit of other Senators' thoughts on it, particularly those who chair the legislative committees on the budget and on agriculture legislation. It may be we can work out some way to take this amendment to conference. If that is not possible, then the question will be whether we move to table the amendment and bring this issue up later as a freestanding bill—that is a possibility. This legislative session doesn't end with the passage of this agriculture appropriations bill. There may be other opportunities to assess the disaster situation around the country.

I thought since the similarity between the amendment offered by the Senator from Florida last night which was accepted by the Senator, and the presentation of the amendment which we have heard now from the Senators from North Dakota were so similar, that it presented us with the same alternative that we exercised last night.

Let me read what I said on the floor of the Senate last night:

> . . .the Department of Agriculture advises us that they cannot at this time verify whether available disaster money has been depleted. I understand this has been a devastating disaster for Florida and that other areas of the country have also been affected by various disasters. We will work with the administration and the House conferees to address the needs of the areas affected by these recent disasters and to determine whether these needs are being met through available funds.
>
> It is my hope that the Department of Agriculture and the Office of Management and Budget are assessing the need for additional funding to meet the needs resulting from these most recent disasters and that the President will soon submit to the Congress requests for supplemental funds which are determined to be required.

I am prepared to suggest to the Senate that on that basis, we take this amendment to conference, but I will not make that suggestion without further discussing my idea with the appropriate legislative committee chairmen.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER (Mr. ROBERTS). The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, I listened carefully to the Senator from Mississippi. I understand he wants to hear from other Senators. It seems to me that one of the suggestions he made makes a lot of sense. Having the opportunity to go to conference with a provision similar to this in the piece of legislation that comes from the Senate will put us in the position of sending a message to those areas that have been hardest hit, a number of areas of the country ranging from the Southeast, to the South, to the North, that we understand this is, in fact, a crisis; that we are responding as we did in the sense-of-the-Senate resolution passed earlier this week without a dissenting vote, that the ag crisis is something that we are willing to address.

I accept the point made by Senator COCHRAN that there may well, in the coming days or weeks, be a need to change the response. Perhaps the response will need to be more aggressive. Perhaps the response may need to be characterized differently. But it seems to me appropriate to go to conference with a provision of this type in the legislation, because it is, I think, telling the family farmers in this land that this Senate does care, does want to respond, and understands that there is a crisis in certain parts of the country.

Again, I certainly respect the interest of the Senator from Mississippi wanting to gauge the reaction of a number of Senators on this subject, but I hope when the day is out and this amendment is disposed of that it will be disposed of in a way—I guess ''disposed'' of is the wrong word—I hope that it is resolved in a way that reaches one of the suggestions perhaps offered by the Senator from Mississippi that we can include it in this legislation.

I must say that I have watched the Senator from Mississippi for some days on the floor. I have always felt he has the patience of Job. He is one of the most gracious and considerate Members of the Senate. I know this is a trying time. I am on the Appropriations Committee with Senator COCHRAN, and I am also someone who will sit here as a ranking member on one of the subcommittees. I know it is a trying time to bring a bill to the floor of the Senate and discover that a lot of folks want to address this bill with peculiar amendments on a range of issues.

I know he understands, because of the vote earlier in the week, that we face very unusual and, in fact, very difficult times in some parts of the country. The crisis we have in our State is unparalleled. I can't think of a time when we have suffered a 98-percent loss in net farm income. It has been devastating. The Senator from Mississippi understands that is what has occasioned amendments to be offered to this bill.

I must say, again, he has enormous patience. Even in exhibiting that patience, he has a graciousness and dignity that all of us appreciate. I yield the floor.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I ask unanimous consent to speak as in morning business.

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

Mr. BAUCUS. I thank the Chair.

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

Mr. COCHRAN. 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. COCHRAN. Mr. President, in further discussions with the Senators from North Dakota and others, I am prepared to recommended that we accept the amendment offered by the Senators from North Dakota and take the issue to conference under the same understanding that I read into the RECORD last night when I accepted, and the Senate agreed to, the amendment offered by the Senators from Florida, Mr. GRAHAM, and Mr. MACK, who was a cosponsor of that amendment.

The statement is as follows:

> The Department of Agriculture advises us that they cannot at this time verify whether available disaster money has been depleted. I understand this has been a devastating disaster for Florida and that other areas of the country have also been affected by various disasters. We will work with the administration and the House conferees to address the needs of the areas affected by these recent disasters and to determine whether these needs are being met through available funds. It is my hope that the Department of Agriculture and the Office of Management and Budget are assessing the need for additional funding to meet the needs resulting from these most recent disasters, and that the President will soon submit to the Congress requests for supplemental funds, which are determined to be required.

It is also my understanding that the proposal in this amendment is a new program. I had suggested that it was a description of an existing discretionary program of the Department of Agriculture, and that I had misread or misunderstood the proposal offered by the Senators.

Nonetheless, I am prepared, under the same understanding, to recommend to the Senate that we accept this amendment. It has been, in this amendment, described as an emergency, which would require an emergency finding not only by Congress, but by the President, in order to avoid having an offset of the funds that are contemplated to be spent under the amendment. But because it does have the emergency declaration, it does not require an offset, and I am advised by the chairman of the Budget Committee that it is not subject to a budget point of order. On that basis, I recommend that the Senate approve it. I understand from my good friend from Arkansas that he has no objection to this recommendation.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. CONRAD. Mr. President, I ask unanimous consent that a letter I have sent to the desk be printed in the RECORD. It is from farm organizations endorsing this amendment.

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

JULY 16, 1998.

Hon. KENT CONRAD,
U.S. Senate, Washington, DC.

DEAR SENATOR CONRAD: On behalf of the farmers and ranchers of our organizations, we strongly support your amendment to the agriculture appropriations bill which would

provide supplemental assistance to those producers who have suffered multiple years of crop losses.

Your amendment is tailored to provide urgently needed assistance to those farmers who have purchased crop insurance, but are unable to obtain adequate coverage, due to multiple years of disaster.

The amendment would help over 45,000 producers. While there are regions in every state that would be eligible, it is especially important for Oklahoma, Texas, North Carolina, Virginia, Mississippi, western Pennsylvania, Idaho and the Upper Plains states.

The supplemental assistance will not only help the individual producers, but will also provide a critical boost to the rural communities in which they reside, which are suffering from the severe losses.

Our organizations share a strong commitment to strengthening the crop insurance program to allow producers to stay in business, even in times of disaster. This amendment will go a long way toward improving coverage for those producers who have purchased crop insurance.

Sincerely,

AMERICAN SOYBEAN ASSOCIATION.
NATIONAL FARMERS ORGANIZATION.
NATIONAL FARMERS UNION.
NATIONAL SUNFLOWER ASSOCIATION.
NORTH DAKOTA GRAIN GROWERS ASSOCIATION.
UNITED STATES CANOLA ASSOCIATION.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3173) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. CONRAD. Mr. President, would the Senator from Idaho like to be included as an original cosponsor?

Mr. CRAIG. Yes.

Mr. CONRAD. Mr. President, I ask unanimous consent that the Senator from Idaho, Mr. CRAIG, be added as a cosponsor.

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

Mr. CONRAD. Mr. President, I thank the chairman of the committee for his help with this amendment, and the many others who participated in these deliberations. I especially thank my colleague, Senator DORGAN, and the Senator from Idaho, Senator CRAIG, who helped us with this amendment.

I think we are moving in the right direction. Obviously, we will have additional opportunities to fashion a final package, as we all understand this will have to go to conference. Again, I thank, very much, the chairman and ranking member and all those who helped.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, let me thank my colleagues from North Dakota for the sincere effort they have made and the willingness of the chairman of the Agriculture Appropriations Subcommittee to review this and help them shape it and accept it.

Certainly, as we get to conference, there is going to be every effort made by this Senator and others to provide what can be provided, and to resolve, as best we can, this impending farm crisis. We clearly understand the problem, the growing problem, and we know that certain actions here can be very, very helpful. I am pleased to be a participant in this, to be supportive of it. I am sure we will be looking at other packages that we will want to bring together in a total effort to help agriculture during this time.

Let me say in my closing comments that our actions here on the floor have consequences. Every Senator who is on the floor now joined with us were active participants last Thursday when the Senate of the United States voted 98–0 to drop the sanctions against Pakistan and India. The Presiding Officer at this moment, the Senator from Kansas, led that dramatic effort to show that this country would stand united and not use food as a tool of foreign policy.

Just moments ago the Senator from Kansas and I had calls from the Ambassador of Pakistan. They have tendered an offer now of over a 100-million-ton purchase from the United States. It is my understanding that they will make an effort at a nearly 300,000-tons purchase within the next several months. That is significant, and those tonnages will be purchased from the United States.

Our actions here have consequences. If we want to be players in the world market, with and for our producers, we cannot throw up the artificial barrier of politics. We tore that down last Thursday in this instance, and the nations involved are responding.

I thank my colleagues.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, there are a number of issues we find strong agreement on today on the agricultural matters. And the matter that was just spoken about by the Senator from Idaho regarding sanctions is one in which I have very strong agreement with him, and also with the Presiding Officer, Senator ROBERTS of Kansas. All of us agree that it doesn't make any sense at all to use food as a tool of foreign policy and to tell farmers to pay the costs of sanctions, and so on. So I am very pleased that we were able, on a bipartisan basis, to work together to resolve that issue. I think we have done that in an effective way.

I am also pleased that the amendment which we have just offered and was accepted and cosponsored by the Senator from Idaho. We have worked with the Senator from Idaho and others, including the Senator from Kansas, Senator ROBERTS, in discussions on a wide range of income issues dealing with family farmers. The reason I sought recognition is just to make one final point; that is, this amendment now becomes part of the agricultural appropriations bill. It then goes from the Senate to a conference with House of Representatives. That is likely, between now and sometime in September, as this agricultural crisis continues to emerge, to occur in a way that may require some changes and some adjustments. We all understand that.

But I think this is an enormously important and a helpful first step to say to family farmers who are struggling that we recognize that this is, indeed, a crisis and we want to respond to that crisis.

I thank the Senator from Mississippi for his leadership, and the Senator from Arkansas for his leadership as well, and I thank my colleague, Senator CONRAD, who is as determined and effective and tough a legislator as there is to work with. I am pleased to have joined him in working on this amendment as well.

I think this is an important step, and it will be viewed as good news—not necessarily the final answer, but good news by family farmers, that on a bipartisan basis the Congress recognizes a crisis and is prepared to respond effectively to it.

I yield the floor.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota, Mr. CONRAD.

Mr. CONRAD. Mr. President, I ask unanimous consent that Senator DASCHLE, Senator HARKIN, Senator BAUCUS, Senator HOLLINGS, and Senator WELLSTONE all be added as original cosponsors.

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

Mr. CONRAD. Mr. President, I also thank my colleague who is in the Chair, Senator ROBERTS, for his good advice to us as we proceeded with this effort. I want to tell him that we look forward to working with him as we try to craft a bipartisan, long-term solution to the problems that we face. I thank the Chair and yield the floor.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Senator from Montana, Mr. BURNS, be added as a cosponsor to the Conrad amendment that was previously offered and agreed to by the Senate.

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

Mr. COCHRAN. Mr. President, we are now moving toward the point where we are wrapping up the consideration of amendments on the agriculture appropriations bill. A number of Senators have advised the managers that they do not intend to offer amendments that they had originally proposed to the bill. We are encouraged by that, and with some effort I think the Senate can complete action on this bill very soon. We are awaiting the arrival in the Chamber of Senators who have suggested that they will offer amendments. We encourage them to come to

the floor, offer those amendments, and let's debate them. If we can agree to them, we will recommend that to the Senate. We appreciate very much the cooperation and assistance of all Senators who have been helpful to us in this effort.

1998 LOUISIANA DROUGHT AND CROP DISASTER

Mr. BREAUX. Mr. President, I call to the Senate's attention the serious and significant drought which has occurred in Louisiana this year. The combination of a prolonged lack of rainfall and persistent high temperatures have resulted in a natural disaster of historic proportions. For those affected, damages have been hard-hitting.

As we debate the 1999 agricultural appropriations bill and amendments to it which respond to severe agricultural distress throughout the nation this year, caused by weather-related damages and low commodity prices, I urge my colleagues to keep in mind the situation in Louisiana.

On June 18 of this year, Governor M.J. ''Mike'' Foster and Commissioner of Agriculture and Forestry Bob Odom wrote to Agriculture Secretary Dan Glickman about the drought in Louisiana.

Though adequate production records were not yet available at the time of their letter, Governor Foster and Commissioner Odom told Secretary Glickman substantial losses were expected in the state and that they expected to be requesting a disaster declaration as soon as adequate production information could be obtained.

Various row crops and pine and hardwood seedlings have been affected in Louisiana by the drought, they said. Cattle have been affected because of severe hay and pasture shortages. Poultry losses also have occurred due to the high temperatures.

Illustrative of the drought's historic character, they pointed out that records have been set for the least amount of rainfall received in the month of May, with rainfall records going back more than 100 years.

Though Congressionally-authorized programs are in place at USDA to respond to disasters, I urge the Senate to be prepared to respond further and promptly as conditions and impacts would worsen.

Mr. President, we know that production disruptions brought about by the drought will cause economic disruptions for producers. In addition, the communities in which our producers live also will be affected. It is for these reasons that I urge close attention to crop disasters and low prices and a readiness to act as warranted.

Ms. MOSELEY-BRAUN. Mr. President, earlier today I voted for Senator GRASSLEY's Sense of the Senate amendment that urges prompt action on a number of trade, tax, and regulatory issues in order to help the American farm community. I think our farmers are experiencing serious problems, and I believe that prompt action on many of the initiatives contained in the Grassley amendment will help expand U.S. agricultural export markets and improve farm profits.

The amendment Senator GRASSLEY put before the Senate recommended that the Senate act on S. 2078, the Farm Ranch Risk Management Act, which I have cosponsored. It urges action to provide full funding for the International Monetary Fund; I believe action to increase the capital of the IMF is essential to address the economic crisis in Asia and the current situation in Russia, both of which have enormous impacts on U.S. agriculture. It urges Congressional approval legislation to continue normal trading relations with China, which I also support. It calls for estate tax reform, reduced regulations on farmers, and use of the Commodity Credit Corporation and Export Enhancement Program at the Department of Agriculture, all of which are worthy of prompt attention by the Senate.

Notwithstanding my support for the general objective of Senator GRASSLEY's amendment, however, I do have one major reservation concerning his amendment, and that has to do with fast-track trade negotiating authority.

Senator GRASSLEY's amendment urges providing the President with new fast-track negotiating authority. I oppose giving the President that authority at this time, for both practical and philosophical reasons. As a practical matter, fast-track, and any agreements it might ultimately lead to, will only provide benefits to American agriculture in the distant future, not in the near term. In fact, the only possible trade agreement on the horizon is with Chile, and that agreement, even if it were put into place tomorrow, would be unlikely to have any significant impact on the economic health of American agriculture.

Moreover, granting the President fast-track authority is not currently warranted because of the total lack of consensus on American trade policy for the future. Large parts of the rest of the world cannot discern any consistent set of underlying principles governing U.S. trade policy decisions. Congress and the Administration have not come to an agreement on a trade policy framework, and in the absence of that framework, decisions are all too often made on an ad hoc basis.

Granting the President fast-track authority requires the Congress to delegate much of the trade authority given the legislative branch by our Constitution to the President. It is no less a delegation of Congressional authority than the line-item veto. Fast track is therefore an issue of the utmost importance institutionally and Constitutionally to the Congress. In the absence of real consensus on trade policy within both the executive branch and the Congress, I cannot and do not support this kind of diminution of Congressional authority over trade.

My support for the general objectives of the Grassley amendment does not represent any change in my view of the fast-track issue. In the absence of a consensus on a new trade policy architecture that includes not only the Congress and the President, but also American agriculture, labor, the business community, and the American people generally, I oppose providing the President with new fast-track negotiating authority.

Mrs. BOXER. Mr. President, I voted for the Grassley sense of the Senate amendment to the Agriculture Appropriations bill because I support nine of its ten provisions.

I do not support the provision stating that we should enact the bill S. 1269, which reauthorizes fast-track trading authority for the President.

It is premature and disruptive to endorse fast-track legislation now, before resolving questions about its effect on jobs and the environment. These are very controversial and complicated problems, and so far we have not figured out how to deal with them.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from New Hampshire is recognized.

Mr. GREGG. Mr. President, I ask unanimous consent to proceed as if in morning business for 5 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

TEAMSTERS UNION ELECTIONS

Mr. GREGG. Mr. President, I want to bring to the attention of the body an issue which is percolating under the surface as we move toward the end of this week; that is, the question of the financing of the Teamsters Union elections which were financed by tax dollars, and which elections may be held again for which there has been a request to finance them again with tax dollars.

The last time we went down this road, the Teamsters Union ran an election which was overseen by the U.S. attorney in New York with the assistance of the Justice Department. And the U.S. Marshals I believe were also involved in it. The taxpayers of this country spent $17 million to oversee this election. The election was then reviewed. It was determined that the election had been fraudulently run, that it had corruptly proceeded, and that it was basically an election which had to be voided by the Federal judge who was overseeing the election.

So for the $17 million of tax money which we invested in order to get a fair and honest election in the Teamsters

Union, the taxpayers got a dishonest, corrupt, and fraudulent election.

That is bad enough. What is even worse is that the taxpayers had to pay in the first place to oversee a union election.

This is the largest union in the United States, I believe, relative to membership. It is a very wealthy union. It is obviously a union which has had some significant problems over the years, both with its leadership and with the management, and especially with its pension funds for its rank and file. But it clearly is a union which has the financial strength to pay the cost of oversight of its elections to assure that the rank-and-file membership of the union get a fair and honest election.

I personally felt sorry for the membership of the Teamsters Union which has been put through this election which has been so fraudulently managed. But I also think that the taxpayers have to be concerned. We have to be concerned about the taxpayers. Why should the taxpayers of this country be asked to pay for the cost of overseeing a union election for a union which is so wealthy? Clearly, for any oversight that occurs, the cost should be borne by the union itself. I should think it would want to in order to obtain an honest and fair election. But no, that didn't happen.

In the last election, the taxpayers came up with $17 million, which was clearly wasted. Have we been reimbursed for that? Have the taxpayers been reimbursed for that $17 million? No, we haven't. I realize that in Washington $17 million seems like a meager sum, but I have to tell you, it is a lot of money.

There are a lot of people in New Hampshire both who are union members and who are nonunion members, who work very hard and who work all year long to pay their taxes. And if you were to add up their taxes, you would find it didn't meet $17 million. I suspect that is probably for 5,000 or 6,000 people in the State of New Hampshire the tax burden for a year. I am not sure. That is a guess. But I suspect it is a large number of people who work all year paying their taxes so they can be put into this union election, which is then fraudulently run. And we didn't get the money back.

Now they come to us again. They say, ''We need another—we don't know what the final figure might be.'' But initially they need another $8 million of tax money in order to run this second election. Fool me once, and it is your fault. Fool me twice, and it is my fault. Clearly, it is the taxpayer who is being taken down the road. If the Congress allows this to happen again, it is the Congress that is being taken down the road, and as a result we are not carrying out our obligation to support the taxpayers.

So for us to pay another $8 million—it may end up being much more than that. It may be $20 million in order to support another union election after we haven't been reimbursed for the $17 million we spent in the last election, which was basically totally mismanaged. It is inconceivable. It is inappropriate. It makes no sense. Fortunately, that is my view. Unfortunately, there are a number of people around here who have a different view.

The White House wants us to spend this money. The Justice Department wants us to spend this money. The Speaker of the House wants to spend, I guess, this money. A number of Members of our own body want to spend this money. But to get this money, they have to, at least in theory, come to the committee that I chair and get me to authorize and reprogram to do it.

I want to go on record as to why I am not doing it. I am not going to reauthorize that reprogram because I am not going to go back to New Hampshire and be walking through a factory somewhere, or on a farm somewhere, or in a small software company somewhere, and have one of my constituents come up to me and say, ''You know, last year I paid *X* dollars in taxes, and you just sent it to run a corrupt election for the Teamsters. What are you doing with my money? Aren't you supposed to be taking care of that money down there? Aren't you supposed to be my fiduciary? Aren't you supposed to be overseeing it so it doesn't get wasted?''

If I approve this transfer, my answer to them would have to be, I am not doing my job, that I am not fulfilling my obligation to protect the taxpayers from the fraudulent misuse of their funds.

The Teamsters Union has the financial wherewithal to pay the cost of overseeing its own elections. The last election was such an abysmal failure from the standpoint of integrity, from the standpoint of appropriateness of an election process, that it is absolutely inexcusable that the Court, that the Justice Department, that the White House, or that anyone else would come to us again and say, Taxpayers, we are going to go down this road one more time. We are going to take you on this ride one more time. We are going to spend your money one more time to run another election for a union which has proven itself to be so corrupt in the manner in which it runs elections.'' It is just beyond my comprehension how we can pursue that course of action. But that seems to be the desire of a number of members in this body and a number of members of the other body, of the White House and of the leadership of the Justice Department. However, if they are going to do it, they are going to do it without my support, and I will do everything I can in this body to make sure that those tax dollars are not spent in this way.

Mr. President, I yield the floor.

Mr. President I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

The Senator from West Virginia.

ANNIVERSARY OF THE GREAT COMPROMISE

Mr. BYRD. Mr. President, today marks the 211th anniversary of one of the more momentous, but little-understood, perhaps, events in our country's history. I will just take a few minutes to remind ourselves of that event and to consider just how the course of this Nation's history might have been forever altered if not for what transpired on July 16, 1787.

It should be of special significance to Members of this body, because it was, fortunately for us, that those who attended the Philadelphia Convention were some of the ablest, brightest figures of the time; in fact, of any time. Ah, Mr. President, to have been a fly on the wall at that gathering! Truly, this was a gathering graced by an accumulation—nay, an abundance—of wisdom, learning, grace, and dignity of a like not seen since the conclaves at Mt. Olympus! From Virginia alone, there were Washington, James Madison, George Mason, and Edmund Randolph; from Massachusetts, Elbridge Gerry and Rufus King; from Pennsylvania, James Wilson, Gouverneur Morris and Benjamin Franklin; and from New York, Hamilton. Here was a constitutional dream team for the ages! And what a starting five! What foe could resist a lineup featuring Wilson's full-court vision, Madison's patience and tactical prowess, Hamilton's aggressive offense, Franklin's experience, and George Washington's dominating presence in the center, as the one who presided over the gathering.

These five were just the tip of the iceberg. Fifty-five men in all presented themselves at the Convention, representing every State, save one—Rhode Island. And with passion and gusto they soon set about devising a plan to guide the country past the shoals and rocks and storms that beset it and into a new sea of tranquility and prosperity.

Nowadays, many of us overlook the tremendous physical and mental effort that were expended in drafting the Constitution. In reading this short document—here it is, I hold it in my hand—in reading this short document, with its precise and careful phrases, it is easy to forget the toil, the sweat, the frustration, the shouting, the argumentation, the thinking, speechifying, and the pleading that went into its creation during that hot Philadelphia summer. For progress was unavoidably slow, and the greatest sticking point—''the most threatening that was encountered in framing the Constitution,'' according to Madison—was the question of whether States should be

represented in Congress equally or on the basis of population.

This question was far from academic, of course. In order to create a Constitution acceptable to the States, the delegates needed to assuage the fears of the small States that they would be swallowed up in a more centralized union. The smaller States looked to Virginia, Massachusetts, and Pennsylvania, with fear and with distrust. The small States feared that a Congress based on population would soon fall under the sway of the large States. New Jersey's delegates declared that it would not be ''safe''—the word is theirs, not mine—they would not be safe to allow Virginia 16 times as many votes as Delaware. They rejected the Virginia Plan, which was presented by Governor Edmund Randolph, with its legislature of two houses, and instead proposed a Congress with a single legislative chamber in which the States had an equal vote.

The Continental Congress, of course, had been a single Chamber, a unilateral legislative branch. It was followed by the Congress, under the Articles of Confederation, again, one body. It was legislative, executive and, to some considerable part, judicial all in one. There was no Chief Executive in the form of an individual. It was the Congress under the Confederation.

Days, and then weeks, of prolonged and acrimonious debate failed to resolve the issue. Some suggested redrawing State boundaries so that all the States would be of roughly equal size. The Convention considered, and then failed to agree upon, equal representation of States in the lower House of Congress. Several times, Connecticut advanced a proposal, initially made by Roger Sherman, calling for equal representation of States in the Senate. This, too, failed to win support. Madison—James Madison—labeled it unjust. Massachusetts' Rufus King angrily announced that he would not, could not, listen to any talk of equal representation in the Senate. James Wilson declaimed that the small States had nothing to fear from their larger brethren in the large States. To this, Delaware's Gunning Bedford retorted, ''I do not, gentlemen, trust you!'' and warned his colleagues that the small States might themselves confederate or even find ''some foreign ally of more honor and good faith who will take them by the hand and do them justice.'' Bedford was roundly rebuked for his words, but the threat of foreign alliances lingered in the stale and sticky summer air. There was no air-conditioning, much like it was in this Chamber up until 1929, when air-conditioning first came to this Chamber.

Efforts to resolve this question ''nearly terminated in a dissolution of the Convention''—it came that close; the effort to resolve this question—according to Luther Martin of Maryland, whose own impulsiveness and heated language did little to calm matters. Washington, that charismatic sphinx who presided over the Convention but kept his thoughts mostly to himself, confided to Hamilton in July that he ''almost despaired'' of success. And Sherman of Connecticut lamented that ''[i]t seems,'' he said, ''we have got to a point that we cannot move one way or another.''

On Monday, July 16—Monday, July 16—some 2 months after the Convention began—the question was finally resolved. Perhaps it was fear of failure that led the delegates to settle, for they knew that the country's future was in their hands—their hands. Perhaps it was exhaustion, for they had already spent many long days and weeks in earnest debate. It may have been because of the heat that had tormented them for so long. Maybe that finally broke that day. Or perhaps the open exchange of opinions, that wrenching but vital process of questioning, debating, and argumentation—that process had successfully whittled away extraneous detail and opinion to arrive at an essential verity. Franklin had described the Convention as ''groping . . . in the dark to find political truth''; perhaps they had at last stumbled upon it. In any event, this day, 211 years ago, the delegates agreed that Congress would be composed of a Senate with equal representation for each State and a House based on proportional representation. This was the Great Compromise, as it was, and has ever since been, called.

Perhaps, Mr. President, we would do best to avert our mind's eye from the horrors that might have befallen this country had the framers not struck the Great Compromise. Perhaps we would be better off simply to thank them, and to also thank Providence, for the miraculous document—the miraculous document; there it is in my hand—the miraculous document that is our Federal Constitution. Perhaps . . . but one thing is clear; without the Great Compromise, the Senate as we know it would not exist.

Without that compromise, without that Great Compromise, the Constitution might not even exist; the Senate, as we know it, you can be sure, would not exist. For this body was conceived that day, 211 years ago today, in Philadelphia when the framers agreed to an upper House of Congress in which each State—each State—had an equal number of votes, each State had equal representation. This is the forum that was born on that day. This is the body—the unique; the body sui generis—that was born on that day, the Senate of the United States. But for the Great Compromise, the Senate—that beloved institution to which so many of us have dedicated our lives, our hopes, our reputations, our strength, our talents, our visions—might never have seen the light of day, let alone played an often pivotal and dramatic role in our national history over the course of more than two centuries.

Mr. President, we would all do well to recall from time to time that the chamber in which we sit owes its existence to a remarkable instance of compromise and conciliation.

Senator DALE BUMPERS of Arkansas, Senator THAD COCHRAN of Mississippi, Senator ROBERT C. BYRD of West Virginia might never have met, might never have known one another, might never have had an opportunity to work together in the interests of our respective constituencies, in the interests of this great Republic.

When next we in the Senate are unable to reach agreement—when we find ourselves plagued by seemingly insurmountable obstacles—when we become frustrated at the obduracy and narrow-mindedness of our opponents—perhaps then, we should remember that minds far more intelligent, visions far more far seeing, persons far more learned—Ah, that learned group of men, they knew about the classics. They knew about Rome and Athens, Persia, Polybius, Plutarch. They knew about Montesquieu. They knew about the colonial experience, the history of England, the history of the ancient Romans.

They were able to find common ground on a matter of far greater import and controversy than much of what we discuss here today. And we should then think to ourselves that just maybe we, too, can find some compromise, some meeting of the minds such as our framers found on that day so long ago in Philadelphia.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I rise to express my profound gratitude to my distinguished colleague from West Virginia, Senator BYRD, for always injecting a meaningful, penetrating history lesson such as we have just been subjected to. It had not occurred to me that it has been 211 years since those magnificent days in Philadelphia brought us this sacred document we call the Constitution which has made us the longest living democracy on Earth, under a Constitution that is the longest living organic law under which any nation has ever lived.

I have made speeches on the floor time and again about what I call the trivialization of the Constitution. When one considers since Congress first convened there have been over 11,500 efforts to amend this document, over 11,500 resolutions introduced in the House and the Senate to amend the work of Madison, Franklin, Hamilton and Adams, and all those great minds which, as the distinguished Senator knows, the great scholar Arthur Schlesinger called the greatest assemblage of political genius ever under one roof—I don't quarrel with that for an instant.

As you have so eloquently pointed out, those men were schooled in the art and the nobility of government. They were historians and they were lawyers, but they were brilliant men. They knew there would be charlatans coming down the pike, trying to trivialize

the Constitution. I remember some since I came to the Senate.

I am very pleased to say that I will, at the end of this year, have been a Member of this body for 24 years. I voted for one constitutional amendment the first year I was in the Senate, and it was a mistake. I am often asked by some member of the press, ''Do you regret some of your votes?''

Of course I do; I am not infallible. If I were doing it over again, I don't know which ones offhand, but if I went through my record, there would be votes I would change. And one amendment to the Constitution which I supported—which, in my opinion today, was dead wrong—I will tell you, was the Equal Rights Amendment. We didn't need a constitutional amendment to provide women with equal rights. We did that in the Civil Rights Act of 1964, and it has been working just fine. We did not have to tinker with the Constitution to do it.

I believe my staff has told me I have voted 38 times against constitutional amendments. I think I want that on my epitaph. And, while noble men may disagree on this, I do not intend before I leave the Senate to cast a vote to change the Bill of Rights. The Bill of Rights—I defer to my colleague—I think they were ratified in 1791. But when the framers left Philadelphia, it was understood that James Madison was going to compose these 10 amendments to the Constitution. These are today called our Bill of Rights. That is the first ten amendments to the Constitution, which provide us freedom of the press, freedom of religion—we have more freedom of religion than most of us are taking advantage of now—and freedom of speech.

Sometimes when I read stories in the press, I think, surely there is some way we can change the freedom of the press clause in the Constitution to stop this sort of irresponsible reporting. But I am not going to do that, because I don't think you can do it without creating a lot more problems than you will solve.

Senator BYRD, if I had my way, no youngster would graduate from college without a fundamental, profound understanding of the Constitution. And precious few of them are graduating with that knowledge today.

Congress deserves a lot of credit. Oh, we take a lot of slings and arrows in this body about knuckling under the special interests, the voters, and the money, and all that sort of thing, but does it not speak well for the Congress that, out of 11,500-plus efforts to change the Constitution, we have only seen fit to do it 27 times? And that includes the first block of 10, called the Bill of Rights, in 1791. You take the 10 in the Bill of Rights out; that leaves 17 times we have actually amended the Constitution. And you remember, we decided we wouldn't drink, and later we decided we would drink; you take those 2 out and there are only 15 times. That is pretty amazing, is it not?

We are importing workers. You heard the debate here just recently about how we are going to allow 75,000 to 95,000 high-tech personnel from abroad, special visa status to come to this country to work. I didn't vote for that bill, incidentally. I still think it was a mistake. But one of the things that troubles me about that is why we are going all out in this country to train people to be computer experts or high-tech gurus. Yet this poor document, the Constitution—which is next to the Holy Bible in sacredness to me—youngsters are graduating from college, and they don't know who James Madison is—the father of the Constitution.

Now, I don't want to denigrate any of my colleagues, but I have to look very carefully at somebody today who thinks he can improve on the words of James Madison. I can assure my colleagues and my constituents back home that I will leave here this fall still only having voted for only one constitutional amendment in my 24 years here.

So, Mr. President, I might just quit on this one note. If I were going to confess to this body the one thing about the Constitution that disturbs me more than anything else—it was a good idea in its time, but I am troubled about it now—that is the fifth amendment requirement of grand juries. The States have long since pretty much eliminated grand juries. But the grand jury system was guaranteed for serious offenses in the Fifth Amendment because they wanted a jury of your peers to make the decision to indict, not the King.

As a matter of fact, the authors of the Constitution intended to make sure that we had no more kings, and they succeeded very admirably. We have had 42 Presidents, I guess, and no kings, since 1787. But I will say this. Their idea was that you could trust the people with your deciding fate and your innocence or guilt a lot more than you could the Crown or anybody representing the Crown.

And, so, the grand jury system had the noblest of intentions. But I would be remiss if I didn't relieve myself of this thought for the benefit of whoever wants to listen. I can tell you, what is going on with the grand jury system in this country right now is dangerous—dangerous in the extreme. I am not suggesting we change the Constitution to do away with grand juries, but I am saying that the grand jury system needs some control and it needs reforming. I have introduced legislation which will do that.

Well, Mr. President, this conversation has been the highlight of my day. I hadn't thought lately about that hot July in 1787 in Philadelphia. It was so hot and George Washington was so intent on everything being secret, they closed the windows and they almost suffocated just to make sure that nothing of the deliberations was heard on the street. But what a lucky people we are to have the honor and the privilege of living in this great country of ours because of those men. Some of them fought in the Revolution, sacrificed their families to fight in the Revolution. And they went there and provided us with this magnificent document.

I thank the Senator again for raising our awareness level on that point.

I yield the floor.

Mr. BYRD. Mr. President, we might pause tomorrow, July 17, to remember that it was on July 17, 1789, 2 years later, that the Senate of the United States passed the Judiciary Act. The Senate was not expected to originate legislation. That didn't mean it could not, but it was anticipated that the House would originate about all the legislation and the Senate would tamper with it, improve it, refine it, and so on.

But in the U.S. Senate, on July 17, 1789, history will always mark the passage of the Judiciary Act, which created the judicial system. Oliver Ellsworth was a key player in that matter. He later became Chief Justice of the United States. But he was never as a justice what he was as a legislator. Oliver Ellsworth. It all causes one to marvel at how that first Senate came to grips with these problems and legislated for the first time on so many of these things. And it was in that first Congress that the two Houses learned to work together and have conferences on bills, where they resolved the differences between the two Houses.

Our forebears were remarkable men. That was a remarkable time in history. I will never fail to believe that Providence had its hand in the destiny of this country when those marvelous things happened in Philadelphia. When one pauses to think about it, the real miracle—and there were many miracles that happened there—was when men of different minds and different experiences, different temperaments, viewpoints, and attitudes, were able to mold their opinions and give and take, compromise, and come to a conclusion. That was a miracle in many ways.

It seems to me that the greatest miracle of all was the convergence of circumstances and people that took place with the Convention. Perhaps 5 years earlier it would not have happened, because the country had not yet fully experienced all of the weaknesses and shortcomings of the Articles of Confederation. A consensus had not yet formed as to the necessity for a new Constitution. Its experiences under the Articles taught it many things to avoid in this new Constitution. And it was fortunate that the Convention was not delayed until 5 years later, as we consider the events that occurred in France with the French Revolution and all of the horrors that took place there with the execution of King Louis XVI.

The fruit ripened just at the right time. That, to me, showed the hand of Providence, and that was somewhat of a miracle in itself.

I thank the Senator and I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I join my friend from Arkansas in thanking the distinguished Senator from West Virginia for his comments today. It is always a pleasure to hear him recount the history of our country. In doing so, I can't help but remember the time and effort and diligence he put to the task of writing the ''History of the U.S. Senate,'' which we have in our offices and others have had an opportunity to enjoy and appreciate over the last several years. It is one of the remarkable acts of scholarship that has been turned in by a U.S. Senator and probably ranks No. 1 in the list of books written by active Members of the U.S. Senate, for all of which I think we owe a deep expression, and sincere expression, of gratitude to the Senator from West Virginia.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, there is just one final little anecdote that I would like to share with the Senate.

When my former colleague, Senator Pryor, left the Senate last year, he went home to the University of Arkansas to teach. He is sort of a roving professor. He taught one day at the school of business, and the next day the school of agriculture, and so on. He was at the law school one day. He said that some smart law student got up and said, ''Why don't you deliver a lecture someday on the comparison of our democracy and the Athenian democracy?'' Senator Pryor said he didn't know what to do. So he went back to his office and he called the Senate historian and he told him what he was up against. The historian said, ''You are lucky. Senator BYRD has just delivered about 15 speeches on Athenian democracy.'' He sent those to him, and he said everybody in the university thinks he is an Athenian scholar.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

The Senate continued with the consideration of the bill.

Mr. COCHRAN. Mr. President, I am hopeful that we can continue now with consideration of amendments of Senators who wish to offer them on the agriculture appropriations bill. We sent word out through the cloakrooms at 3 o'clock that we were prepared to conclude consideration and approve amendments, recommend acceptance of Senators' amendments, which have been brought to the attention of the managers, and those that could not be agreed upon, we would offer them for Senators and get votes on them if they wanted us to do that, or move to table them and dispose of them in that way, so that we could complete action on this bill. We need to complete action on the bill today and move on to other matters.

I notice the distinguished Senator from Iowa is on the floor. He has an amendment to offer. I am happy to yield the floor to permit him to do so.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

PRIVILEGE OF THE FLOOR

Mr. HARKIN. Mr. President, I ask unanimous consent the privilege of the floor during the debate on the agriculture appropriations bill be granted to Sarah Lister, a member of my staff.

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

AMENDMENT NO. 3175

(Purpose: To provide funding for the Food Safety Initiative with an offset)

Mr. HARKIN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa (Mr. HARKIN), for himself, and Mr. LEAHY, Mr. KENNEDY, Mr. TORRICELLI, Mr. DURBIN, Mr. WELLSTONE, Ms. MIKULSKI, and Mrs. MURRAY, proposes an amendment numbered 3175.

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

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

The amendment is as follows:

On page 67, after line 23, insert the following:

SEC. 7. FOOD SAFETY INITIATIVE.

(a) IN GENERAL.—In addition to the amounts made available under other provisions of this Act, there are appropriated, out of any money in the Treasury not otherwise appropriated, to carry out activities described in the Food Safety Initiative submitted by the President for fiscal year 1999—

(1) $98,000 to the Chief Economist;

(2) $906,000 to the Economic Research Service;

(3) $8,920,000 to the Agricultural Research Service;

(4) $11,000,000 to the Cooperative State Research, Education, and Extension Service;

(5) $8,347,000 to the Food Safety and Inspection Service; and

(6) $37,000,000 to the Food and Drug Administration.

1. Amendment of the No Net Cost Fund assessments to provide for collection of all administrative costs not previously covered and all crop insurance costs for tobacco. Section 106A of the Agricultural Act of 1949, as amended, 7 U.S.C. 1445–1(c), is hereby amended by, in (d)(7) changing ''the Secretary'' to ''the Secretary: and'' and by adding a new clause. (d)(8) read as follows:

''(8) Notwithstanding any other provision of this subsection or other law, that with respect to the 1999 and subsequent crops of tobacco for which price support is made available and for which a Fund is maintained under this section, an additional assessment shall be remitted over and above that otherwise provided for in this subsection. Such additional assessment shall be equal to: (1) the administrative costs within the Department of Agriculture that not otherwise covered under another assessment under this section or under another provision of law; and (2) any and all net losses in federal crop insurance programs for tobacco, whether those losses be on price-supported tobacco or on other tobaccos. The Secretary shall estimate those administrative and insurance costs in advance. The Secretary may make such adjustments in the assessment under this clause for future crops as are needed to cover shortfalls or over-collections. The assessment shall be applied so that the additional amount to be collected under this clause shall be the same for all price support tobaccos (and imported tobacco of like kind) which are marketed or imported into the United States during the marketing year for the crops covered by this clause. For each domestically produced pound of tobacco the assessment amount to be remitted under this clause shall be paid by the purchaser of the tobacco. On imported tobacco, the assessment shall be paid by the importer. Monies collected pursuant to this section shall be commingled with other monies in the No Net Cost Fund maintained under this section. The administrative and crop insurance costs that are taken into account in fixing the amount of the assessment shall be a claim on the Fund and shall be transferred to the appropriate account for the payment of administrative costs and insurance costs at a time determined appropriate by the Secretary. Collections under this clause shall not effect the amount of any other collection established under this section or under another provision of law but shall be enforceable in the same manner as other assessments under this section and shall be subject to the same sanctions for nonpayment.''

2. Amendment of the No Net Cost Account assessments to provide for collection of all administrative cost not previously covered and all crop insurance costs. Section 106B of the Agricultural Act of 1949, as amended, 7 U.S.C. 1445–2, is amended by renumbering subsections ''(i)'' and ''(j)'' as ''(j)'' and ''(k)'' respectively, and by adding a new subsection ''(i)'' to read as follows:

''(i) Notwithstanding any other provision of this section or other law, the Secretary shall require with respect to the 1999 and subsequent crops of tobacco for which price support is made available and for which an Account is maintained under this section, that an additional assessment shall be remitted over and above that otherwise provided for in this subsection. Such additional assessment shall be equal to: (1) the administrative costs within the Department of Agriculture that are not otherwise covered under another assessment under this section or under another provision of law; and (2) any and all net losses in federal crop insurance programs for tobacco, whether those losses be on price-supported tobacco or on other tobaccos. The Secretary shall estimate those administrative and insurance costs in advance. The Secretary may make such adjustments in the assessments under this clause for future crops as are needed to cover shortfalls or over-collections. The assessment shall be applied so that the additional amount to be collected under this clause shall be the same for all price support tobaccos (and imported tobacco of like kind) which are marketed or imported into the United States during the marketing year for the crops covered by this clause. For each domestically produced pound of tobacco the assessment amount to be remitted under this clause shall be paid by the purchaser of the tobacco. On imported tobacco, the assessment shall be paid by the importer. Monies collected pursuant to this section shall be commingled with other monies in the No Net Cost Account maintained under this section. The administrative and crop insurance costs that are taken into account in fixing the amount of the assessment shall be a claim on the Account and shall be transferred to the appropriate account for the payment of administrative costs and insurance costs at a

time determined appropriate by the Secretary.Collections under this clause shall not effect the amount of any other collection established under this section or under another provision of law but shall be enforceable in the same manner as other assessments under this section and shall be subject to the same sanctions for nonpayment.''

3. Elimination of the Tobacco Budget Assessment. Notwithstanding any other provision of law, the provisions of Section 106(g) of the Agricultural Act of 1949, as amended, 7 USC 1445(g) shall not apply or be extended to the 1999 crops of tobacco and shall not, in any case, apply to any tobacco for which additional assessments have been rendered under Sections 1 and 2 of this Act.

Section 4(g) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b(g)) is amended in the first sentence by striking ''$193,000,000'' and inserting ''$178,000,000''.

Amend the figure on page 12 line 20 by reducing the sum by $13,500,000.

Amend page 12 line 25 by striking ''law.'' and inserting in lieu thereof the following: ''law, and an additional $13,500,000 is provided to be available on October 1, 1999 under the provisions of this paragraph.''

Mr. HARKIN. Mr. President, my cosponsors on this amendment are Senators LEAHY, KENNEDY, TORRICELLI, DURBIN, WELLSTONE, MIKULSKI, and MURRAY. I want them all added as cosponsors of this amendment.

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

Mr. HARKIN. Mr. President, the amendment that I just offered would restore $66 million for the President's Food Safety Initiative, the funding of which I believe should be a national priority. I understand the constraints faced here on this subcommittee on spending. But food safety is an increasing problem in this country. As the President has pointed out, I think we ought to make food safety a priority. If there is one thing we all do, it is that we all eat. And there are few things more important than knowing that the food you are going to eat isn't going to make you sick.

So this amendment really is to ensure that the health and safety of American consumers is protected, and protected even better than it has been in the past.

Again, Mr. President, I don't know the reason why this is happening. But more and more frequently we are getting outbreaks of pathogens and foodborne illnesses in this country.

Just last month, in June of 1998, there were 12 outbreaks of foodborne illnesses in this country. Here is the chart that depicts that. I know there are more dots here than 12. But there are 12 different outbreaks. Some outbreaks occurred in more than one State. So we had 12 different outbreaks. It affected consumers in 41 States and caused more than 7,000 illnesses.

That is in the month of June of this year. That is one month. That is just the tip of the iceberg. It is estimated that there are millions of cases and over 9,000 deaths per year in this country from foodborne illnesses, including a lot of kids who need dialysis, or kidney transplants, after eating food contaminated with what now has become a well known pathogen, E. coli 0157H7. We all know that kids get it. They get deathly ill from it. Many die. Those who do not go on kidney dialysis have kidney transplants.

Here is the interesting thing. This pathogen, E. coli 0157H7, we all read about. And you can talk to persons on the street and they know about E. coli 0157H7. It didn't even exist 20 years ago. So we are seeing new mutations. Twenty years ago, E. coli 0157H7 didn't even exist, and today thousands of people are getting sick and dying from it throughout the United States.

The E. coli 0157H7 are the blue dots. The white dots, the green dots, and all these others—about six different ones here—E. coli 0157H7 outbreaks throughout the country in June.

One other outbreak, which affected hundreds of people in 12 States, involved an unusual strain of Salmonella that came in breakfast cereals. That is the one in the red dots here you can see all over the United States.

I happen to be a cereal eater. I have eaten cereal—Cheerios, Wheaties, and everything else—since I was a kid, obviously, and I am sure everyone else has. If there is one thing that you think is really safe, it is cereal. It is dry. It is roasted, toasted, baked, or something. You get it in a box, you open it, put it in the bowl, put milk on it, and you think it is safe. This is the first time that we have ever had Salmonella occur in a dry cereal. Usually you get Salmonella in raw eggs, or things like that, but not from cereal.

So, as I said, there is something happening that we have not seen before in terms of the kinds of foods and the numbers of outbreaks and the new pathogens that are affecting our country.

I always like to ask people when I talk about this in meetings in Iowa and other places. I say, ''How many people here have ever gone out to a restaurant to eat and you come home, you have had a nice meal out, you watch the evening news, you go to bed, and at 2 o'clock in the morning you wake up and there is a railroad train going through your stomach, and you make a bee-line for the bathroom?''

Usually people start laughing. But they are nodding their heads. A lot of those aren't even reported. And people are a little sluggish the next day, they don't feel quite right the next day, productivity goes down, but after 24 hours they are over it and move on. That is what I mean. A lot of these aren't even reported, but it happens to people every single day.

If that happens to me, and I get a little upset stomach, I get a little sick, a little diarrhea the next day, or I feel a little down, I move on, think what happens to a kid. What about a child? What about someone 12, 13, or 10 years old? They are affected a lot worse than that. Or an elderly person whose immune system may not be as strong as someone my age. They are the ones who are getting hit harder and harder by these foodborne pathogens.

This is really an appropriate time to be talking about this, during the middle of a hot summer, because there is another interesting thing about foodborne pathogens.

In 1997, and we know in previous years the same is true, the number of foodborne illnesses always peaks in the summer, and they come down in the winter. May to September is when we get our peak. Pathogens flourish on the foods and any foods that aren't handled properly in the summer heat. So during the summertime, we see the number of incidents of foodborne pathogens going up. So this is a proper time to be talking about it, in the summer months.

We can reduce the number of foodborne illnesses that we have in this country.

We can reduce the incidence and severity of foodborne illnesses, and the Food Safety Initiative that the President announced will provide funding for necessary inspection, surveillance, research, and education activities at both the USDA and the FDA to improve the level of food safety in this country.

I will go over each one of those. First, inspection. The amendment that I sent to the desk provides for increased spending to improve inspection. Now, what kind of inspection are we talking about? Well, the FDA inspects the 53,000 domestic food processing plants on the average of once every 10 years. That is right, on the average of once every 10 years, FDA inspects the plants that can our fruits, can our vegetables, handle our produce and fresh fruits and things like that—about once every 10 years. Right now, FDA inspects only about 2 percent of imported produce, although consumption of these products is increasing and imported produce has been linked to several outbreaks of illnesses in recent years. So only 2 percent of imported produce is even inspected by the FDA.

This amendment funds 250 new inspectors at FDA for this purpose. It will also fund a program at USDA to implement the new inspection procedures for meat inspection in State-inspected meat and poultry plants. Right now, we have a Federal system. We also have State-inspected meat and poultry plants, and this amendment would help fund the implementation of these new—HACCP, as it is called—meat inspection systems in our State-inspected meat and poultry plants.

So that is the first part, inspection.

The second part has to do with research and risk assessment. The Food Safety Initiative seeks new funds for research and risk assessment. The funding will lead to new rapid-testing methods to identify pathogens before they can be spread far and wide. Funding for on-farm testing will help determine where simple solutions such as vaccines can make major improvements in the safety of food. So risk assessment and research can point to

practical solutions that will get to it early on and make high-risk foods a lot safer—I mean foods that are handled a lot, foods that are used a lot in the summertime, maybe are handled and cooked outdoors, that type of thing.

The third aspect of this amendment deals with education. This amendment calls for funding for education programs for farmers, food service workers, and consumers. I might just point out that consumer food safety education is crucial as traditional homemaker education in schools and at home is increasingly rare. Educating food service workers is also important as more and more of us eat out or eat take-out foods.

The last part is surveillance. In the case of these outbreaks in June, extensive investigations were necessary before tainted products could be identified and recalled. The Food Safety Initiative provides new funds for the USDA and FDA to coordinate with the Centers for Disease Control and Prevention in identifying and controlling outbreaks of illnesses from food; in other words, get better surveillance out there to coordinate with CDC, USDA, and FDA—and that is not taking place right now—so that if you do have an outbreak, you can contain it and keep it in one locality without it spreading to other States. And that is really important.

I will take this chart and again put it up here to show the outbreaks that happened in June. What you can see is, you have an outbreak of E. coli here in one State, and you see it spreading to other States, the same strain, the same packages. Why would it be in Ohio, then in Kansas, and then out here in Utah? Why would it be in those States all at the same time? We know how fast we move food around this country. You could have something slaughtered, processed, produced, and packaged in one State and 24 hours later it is being eaten halfway across the country. That is why you need good surveillance. If you find something that has happened in one locality, you can coordinate with the CDC down here in Atlanta, GA, and put the brakes on right away. We don't have that kind of in-depth coordination and surveillance right now, and this amendment would provide that.

Last October at a hearing before the Senate Ag Committee, numerous producer, industry, and consumer groups called on the Federal Government to increase resources for food safety in research, education, risk assessment, and surveillance. I thought I might just quote a couple of these.

Mike Doyle, Ph.D., on behalf of the American Meat Institute, the Grocery Manufacturers Association, National Broiler Council, National Food Processors Association, and the National Turkey Federation, testified last October, and he said:

> The problem we should be facing is how to prevent or reduce pathogens in the food supply. Research, technology and consumer education are the best and most immediate tools available. Government can be most helpful by facilitating the aggressive use of these tools to find new ways to protect consumers.
>
> A strategic plan for a prevention-oriented, farm-to-table food safety research technology development and transfer that engages the resources of the public and private sector must be developed and fully funded.

Alan Janzen on behalf of the National Cattlemen's Beef Association.

Gregg Page, President, Red Meat Group, Cargil, Inc., on behalf of the American Meat Institute, said:

> Congress can help ensure that there is reality in the laws and regulations governing food safety by endorsing educational activities focused on proper cooking and handling practices and a comprehensive, coordinated and prioritized approach to food safety research.

C. Manly Molpus, Grocery Manufacturers of America, in a letter dated January 19, 1998, said:

> With new, emerging food pathogens, FDA must have the resources to recruit scientists and fund research and surveillance. Increased resources will mean better, more focused and planned scientific research programs.

So we have a lot of comments from the industry about the need to make sure that this Food Safety Initiative is, indeed, fully funded.

Now, lastly, let me just point out where we get the offset for this amendment. The offset has several components. The principal one would complete the job of getting the U.S. taxpayer out of the business of supporting the production of tobacco. It is a common question I hear: If smoking is so bad and we are trying to get this tobacco bill passed around here, then why is the Government subsidizing the production of tobacco?

Well, it is not supposed to be. Under the 1982 No Net Cost Tobacco legislation, the cost of the tobacco price support program is covered by assessments made by tobacco companies and growers. But that is only for the price support program. These assessments do not cover the cost to the taxpayer of crop insurance on tobacco, nor do they cover the administrative costs of the tobacco program or the various other tobacco-related activities at the USDA. The total cost of these USDA tobacco activities is about $60 million a year. Under this amendment, tobacco companies will cover the cost of these USDA tobacco activities. After all, it is the tobacco companies that benefit from having a dependable supply of tobacco available to them.

So I think it is about time that we close this last little loophole and have the tobacco growers and companies pay the $60 million that the taxpayers are paying today.

So that is the first part of the offset. The second one is that we get $15 million from the mandatory CCC computer account. These funds are available to the USDA to be spent for data processing and information technology services. Cutting this account will in no way reduce the ability of the USDA to prepare for the Y2K problem at all. So there is $15 million from this computer account.

And, lastly, we cut $13 million from the ARS buildings and facilities account. Again, we do not propose to eliminate any building projects. Rather, we propose to delay the money that would be obligated but not spent during the fiscal year 1999.

In other words, the money would be obligated, but it would not be spent. All projects would be allowed to continue development and planning of these facilities. But there is no point in appropriating money in fiscal year 1999, money that will not be spent, when there is a critical need for food safety funds to fund the Food Safety Initiative.

I see two of my colleagues on the floor who have worked very hard on this Food Safety Initiative, who are strong supporters of it. I yield the floor at this time.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. TORRICELLI. Mr. President, I yield to the Senator from Illinois.

PRIVILEGE OF THE FLOOR

Mr. DURBIN. Mr. President, I ask unanimous consent that Kevin Mulry, a Brookings fellow in my office, be granted the privilege of the floor during consideration of the Harkin amendment on the agriculture appropriations bill, S. 2159.

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

Mr. DURBIN. I make a second unanimous consent request, if there is no objection from the chairman, the Senator from Mississippi, since it does not appear there is another Senator on the floor, I ask unanimous consent to follow the Senator from New Jersey in making remarks in support of the Harkin amendment.

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

The Senator from New Jersey.

Mr. TORRICELLI. Mr. President, I rise in support of the Harkin amendment to fund President Clinton's Food Safety Initiative. In supporting this effort to fund food safety in our country, I must admit to some surprise about the debate. Through the years in this Congress, we have had controversial debates with legitimately and strongly held different views. This is a difference of opinion that I just do not understand.

It is now estimated that there are 9,000 Americans per year losing their lives because of food safety. There is a rising cost in human life and suffering because of compromises in the quality of food consumed in America. In a nation where we are accustomed to automobile accidents and crime, the leading reason in our country to visit an emergency room is because of food that you purchased and consumed. It is not

an insubstantial cost to our economy. Mr. President, 6.5 million people suffering from foodborne illness; $22 billion in cost to our economy.

Two years ago, on a bipartisan basis, across philosophical lines as a national community, we came to recognize that this cost was not sustainable and mostly was not necessary. This Congress began to fund, under President Clinton's leadership, an initiative to ensure the quality and safety of our Nation's food supply. We are now about to enter into the second year of that program, which has included hiring more inspectors, enhancing surveillance and early warning, increasing research into pathogens like the E. coli bacteria, and to develop more fast, cost-efficient, and more modern detection methods. The second year is about to begin, but a preliminary judgment has been made on the budget of the Government to abandon the effort: No research, no new technology, no new inspectors—nothing.

It would be a legitimately held view to come to the floor of this Senate and say, ''The President's plan has been tried and has been evaluated, it is understood, but there is a better idea.'' There may be better ideas. There is no monopoly of wisdom in constructing this plan. But to argue, in the U.S. Senate, in the face of this rising problem, that the better answer is to do nothing, confounds logic. I do not understand it—governmentally or politically.

The American people may be under the impression that their food supply is safe. It is certainly true by world standards; compared with many nations, it is safe. But it is not what they believe. Mr. President, 9,000 deaths is unconscionable, but it is not even the full extent of the problem. Some years ago, like most Americans not recognizing the full extent of this problem, I heard testimony from a constituent of mine named Art O'Connell. His 23-month-old daughter, Katie, had visited a fast-food restaurant in New Jersey. The next day she wasn't feeling well. Two days later she was in a hospital. By that night her kidneys and her liver began to fail. A day later, she was dead.

I thought it was about as bad a story as I could hear, and then in the same hearing I heard mothers and fathers from around America whose children had also been exposed to the E. coli bacteria, and realized that sometimes the child that dies can be the fortunate child. The E. coli bacteria will leave an infant blind, deaf, paralyzed for life. In the elderly, it can strike more quickly and also result in death.

It is a crisis in our country, but it is one that will not solve itself. Indeed, it is estimated over the next decade, the death toll and the suffering from foodborne illness in America will increase by 10 to 15 percent per decade.

There are, to be certain, a number of reasons—the sources of food supplies, a more complex distribution system, failures to prepare food properly, and almost certainly because of rising imports of food. Food imports since 1992 have increased by 60 percent. Yet, notably, inspections have fallen by 22 percent. There are 53,000 potential sites in America involved in the production of food for the American people—53,000. The United States has 700 inspectors. To place this in context, in the State of New Jersey where we operate a gaming industry, in Atlantic City, we have 14 casinos. We operate with 850 inspectors. What my State government in New Jersey is doing to assure that the roulette wheels and gaming tables of Atlantic City are safe for gamers, the United States of America is not doing for the food supply of the entire country. Mr. President, 700 inspectors for this country.

To be honest, I do not argue that, even if Senator HARKIN's amendment is accepted, that the Members of this Senate can face their constituents honestly and claim that this problem is being solved, no less managed. It would, in truth, require much more. Over the years, in working with Senator DURBIN, we have outlined legislation that is far more comprehensive, in my judgment, much more attuned to what is required—to create a single food agency to replace the current 12 Government agencies involved in food safety, to remove agencies whose principal mission is to prevent the consumption and sale of food from inspection—to remove an inherent conflict of interest in the management of the Nation's food supply; and certainly to give the Department of Agriculture a mandatory recall authority so the moment we know there is a problem and health is endangered, we can eliminate the distribution problems.

All these things are required, but we are asking for none of that today. All that Senator HARKIN is asking is to fund at the commitment levels we decided on a year ago, to do the second half of a 2-year program to provide for the inspections, the technologies of this food safety program.

Mr. President, many of us years ago learned of a different period in American history through the words of Upton Sinclair in his writing, ''The Jungle.'' At a time when the Federal Government was not doing little to ensure the safety of our food supply for our people, it was doing nothing.

Most Americans will be surprised to learn that, as they read as a student of Upton Sinclair, the technology of food inspection has not really changed in these several generations. The principal instrument used by the U.S. Government to ensure that meat is safe is the human nose of an inspector. The second line of defense is his eyesight. As food comes down the assembly line, assuring that it is safe is based on the instinct of those inspectors, albeit inspecting 2 percent of the Nation's imported food supply.

Part of this program is to advance the technologies which we are using in every other aspect of American life, the extraordinary technologies of our time which uniquely, incredibly and inexplicably are not being used on a very item of life and death of our citizens—our food supply. This program will develop and advance those technologies.

New pathogens are being found all the time. The E. coli bacteria itself is changing. This program will research to understand those pathogens, to use our technology to defeat them in biomedicine.

As the Senator from Iowa has said, we also need enhanced surveillance. Because we live in a time when the food supply of one State can appear in another State within hours, a single source of contaminated food can be across America in days. We need to track it through surveillance to find it and eliminate it.

Of course, as I suggested, we need more inspectors to also ensure the presence of the Government is there.

All we are doing is attempting to fulfill what the American people believe they already have. Most Americans, if you were to ask them today, would tell you: ''Yes, there's a Federal inspector where that meat is produced, those fruits and vegetables, that syrup, they are there, and we are using the best technology and we are understanding the pathogens.'' We are asking that this Senate help fund that which we committed to 2 years ago and that which the American people already believe exists.

Finally, there is ample time for us to disagree on many issues. There are legitimate concerns about which we can differ. If ever there was an issue about which we could come together in common cause, this is that issue. This is not an expansion of Government power, it is a power which the Government has had for all the 20th century. It is not draining significant resources we do not have. It is $100 million in a modest program.

I am proud to join with Senator HARKIN, Senator DURBIN and Senator KENNEDY in offering this amendment. I hope we can receive an affirmative vote and proceed with this program and avoid all that suffering, which is just so unnecessary, and begin to turn the corner on dealing with this very important problem.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, first I thank my colleague from New Jersey for his fine statement, as well as my colleague from Iowa. The Senator from New Jersey and I have introduced legislation which attempts to streamline this entire process. It is mind-boggling to try to come to grips with the many different agencies and laws that apply to food safety inspection in America. Though that is not the object of the amendment of the Senator from Iowa, it is something which I hope on another day the Senate will address. To

think that there are some six different Federal agencies with the responsibility of food inspection, some 35 different laws and a crazy quilt of jurisdiction which not only wastes taxpayers' dollars, but creates risk for consumers is unacceptable.

What we address today is more immediate, different than a change of jurisdiction within agencies. It is to address the immediate need to assure the consumers of America that its Government is doing all in its power to protect them at their family tables.

This issue first came to my attention about 3 or 4 years ago. I certainly heard about the E. coli outbreaks in Jack-in-the-Box and the others that were well publicized, but I received a letter when I was a Member of the House of Representatives from a lady in Chicago. I didn't represent the city, but she sent me a letter when she heard we were debating modernizing our food inspection system.

In this handwritten letter, Nancy Donley of Chicago told the tragic story of going to the local grocery store to buy hamburger for her 6-year-old son Alex, coming home and preparing it. Alex ate the hamburger and within a few days was dead, dead from E. coli-contaminated hamburger, which led to one of the most gruesome episodes one can imagine.

Your heart breaks to think of a mother and father standing helplessly by a hospital bed wondering what is taking the life away from this little boy whom they love so much. She tells in graphic detail how Alex's body organ by organ shut down until he finally expired because of contamination in a food product.

It brought to my attention an issue which I had not thought about for a long time, because you see, unlike some Members of the Senate, I have some personal knowledge when it comes to this issue, not just because I eat, which all of us do, but 30 years ago, I worked my way through college working in a slaughterhouse in East St. Louis, IL. I spent 12 months of my life there, and I saw the meat inspection process and the meat processing firsthand.

I still eat meat, and I still believe America has the safest food supply in the world, but I am convinced that we need to do more. The world has changed in 30 years. The distribution network of food in the United States has changed. When I was a young boy, it was a local butcher shop buying from a local farmer processing for my family. Now look at it—nationwide and worldwide distribution, sometimes of a great product but sometimes of a great problem. That some contaminated beef last year led to the greatest meat recall in our history is just a suggestion of the scope of this problem. A contamination in one plant in one city can literally become a national problem.

This chart that Senator HARKIN of Iowa brought before us doesn't tell what happened across the United States in 1 year. It tells us what happened in 1 month, June of 1998. These were the outbreaks and recalls in the United States of America. I am sorry to say, with the possible exception of New York, my home State of Illinois was hit the hardest, for you see, we had over 6,000 people in the Chicago area who were felled by some food-related illness that might have been associated with potato salad—6,000 people. We are still searching to find exactly what caused it.

We had a hearing with Senator COLLINS of Maine just a few days ago in the Governmental Affairs Committee which took a look at the importation of fruits and vegetables. She focused—and I think it was an excellent hearing—on Guatemalan raspberries that came into the United States contaminated with cyclospora, and, of course, caused illnesses for many people across the United States.

The fascinating thing, the challenging part of that testimony was that if you look at our inspection process today, there is no way for us to detect the presence of that bacteria, nor is it easy for any doctor to diagnose a person as having been stricken by that illness.

As we trace those imports in the United States of fruits and vegetables, we find that we face a new challenge in addition to this broadening distribution network. It is a challenge where our appetites have changed, and where we enjoy the bounty of produce from all over the world. So our concerns which used to be focused on the United States and partially on imported fruits and vegetables have expanded dramatically. Now we worry about imported fruits and vegetables from the far corners of the world.

We worry about contaminations which we never heard of before which could, in fact, affect literally millions of Americans. The challenge of food inspection is changing dramatically.

Let me give you another illustration about what is happening. Most of us can recall, when we were children, when mom would bake a cake or make cookies, and she finished putting it all together, and you were standing dutifully by waiting for the cookies or the cake, she would hand you the mixing bowl—and you would reach in with a spoon or spatula and taste a little bit of the dough, cake batter, whatever it might be. As you see, I did that many times; and I appreciated it very much.

You know, now that is dangerous. You know why it is dangerous? Because of the raw eggs that are part of the mix. It used to be that the salmonella was traced to the shell of the egg, so if the shell fell in the batter, you would say, ''Oh, that's something we need to be concerned about.'' But, sadly, within the last few years they have found the salmonella inside the egg. So you can never be certain handing that mixing bowl to a tiny tot in the kitchen that you are not inviting a foodborne illness that could be very serious.

Things are changing. We need to change with them. When President Clinton stepped forward and said, ''America's concerned about this problem and American families realize they can't protect themselves as individuals, they're counting on us to do the job,'' he challenged us to fund it. Sadly, we are not funding it in this bill.

That is why the Senator from Iowa, Senator HARKIN, Senator KENNEDY, Senator TORRICELLI, and I are offering this amendment to increase the funds.

What will we do with them?

First, increase the number of inspectors. We clearly need more people on the borders taking at look at the process and the fresh food coming into the United States. I have been there. I have been to Nogales, Mexico, Nogales, AZ. I have seen that border crossing.

I have followed the FDA inspection all the way from the trucks to the samples taken into the laboratory in Los Angeles, CA, to be tested; and I can tell you that, though it is good, it is far from perfect.

In most instances, by the time they have tested that sample of fruits or sample of vegetables, and if they find anything wrong with it, it is long gone, it is already on the grocery shelves somewhere in America. Oh, they are going to be more watchful the next time around, but they cannot protect us with the resources presently available.

President Clinton said we can do more, and we should do more. We also need to look into this whole question of surveillance. As we noted here, this distribution system around the Nation really calls on us to move quickly. If we find a problem at a processing plant in my home State of Illinois, we need to know very quickly whether or not it has been spread across the United States so that recalls can take place.

We need more research, too, research on these foodborne illnesses, how they can be averted and avoided. I think we can achieve that, as we should. The Senator from New Jersey had the most telling statistic: 53,000 different food production sites around America, 700 inspectors. We will never have an inspector for every site. We certainly can do better than we have at the present time.

Let me also say that the offset that the Senator from Iowa is offering to us is a very good one. I am personally aware of it because a large part of it represents an amendment which I have offered for several years, first in the House and then in the Senate. It answers a question which virtually all of us, as politicians—Senators and Members of Congress—face.

How many times I have gone into a town meeting and someone raises their hand and says, ''Senator, let me ask you a question. If you tell us that tobacco is so dangerous, why does the Federal Government subsidize it?'' Well, I will tell you, there is not a very good answer to that question.

This amendment being offered by the Senator from Iowa finally puts to rest and answers that question. We are going to stop subsidizing the growing of tobacco in America. We are going to stop asking taxpayers across the United States to pay for a subsidy to the tobacco-growing industry.

I have offered this amendment before. I have never had a better use of it than what the Senator from Iowa is offering today. Take the taxpayers' money now being invested in the cultivation and growth of this deadly product, tobacco, take that money, put it into food safety.

There is a real justice to this amendment and what the Senator is offering so that we can say to people, we are not only stopping this Federal subsidy of the cultivation of tobacco, we are trying to protect children, the elderly, and those who have some health problems that may make them particularly vulnerable. So I heartily support the offset which is being offered by the Senator from Iowa.

Mr. HARKIN. Will the Senator yield?

Mr. DURBIN. I am happy to yield.

Mr. HARKIN. I want to make it clear for the RECORD that the Senator from Illinois, Senator DURBIN, has been the leader in going after this aspect of the taxpayer funding of tobacco at USDA for years. So I just thank the Senator for letting me capitalize on that and use this money that he has tried so valiantly over the years to stop—to use that for this offset for the Food Safety Initiative.

I appreciate the Senator's support and his willingness to let us use the offset that he has been trying to kill for years, because it really is unfair for the taxpayers of this country to spend $60 million every year in support of USDA activities that go to help grow more tobacco in this country. If they want to do it, let the tobacco companies fund it themselves. I thank the Senator for his years on this effort in this regard.

Mr. DURBIN. Let me say to the Senator from Iowa, I am happy to join him in this effort. We could not think of a better investment of this money than to take it away from the promotion of a product which causes so much death and disease and put it into the kind of health initiative which the Senator from Iowa has suggested.

Let me just say this: Mark my words. Within a few weeks we will read in the newspapers again of some outbreak of food contamination and food illness. We will be alarmed and saddened by the stories of the vulnerable—the children, the elderly, and those who are in a frail medical condition who have become victims because of it.

Each of us, in our own way, if it affects our State will express our outrage, our disappointment; and we will promise that we will do something about it. Well, let us be honest. This is the amendment that might do something about it. We can give these speeches—and we will—but the real question is, Are we prepared to back up our concern in front of a television camera with our votes on the floor of the U.S. Senate?

The Senator from Iowa is offering us an opportunity to really be certain that the American people understand what our commitment is to this important issue. I thank him for his commitment. I am happy to join him as a cosponsor of this amendment.

I yield back the remainder of my time.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

PRIVILEGE OF THE FLOOR

Mr. KENNEDY. Mr. President, I ask unanimous consent that floor privileges during the debate on the agriculture appropriations bill be granted to Diane Robertson, Stacey Sachs, and Mary Reichman.

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

Mr. KENNEDY. Mr. President, I join in thanking my friend and colleague from Iowa, Senator HARKIN, and Senator DURBIN, and others, for providing the leadership in what I consider to be one of the most important amendments introduced as part of this legislation. I hope that we will be successful, because it addresses a problem that has been outlined by my colleagues on the floor of the Senate about what has been happening in our food supply over recent years.

What we have seen, Mr. President, over the period of the last 5 years, has been the doubling of imported food into the United States. We expect that the food that has come into the United States will double again over the next 5 years.

We are finding that a third of all of the fruit, and over half of the seafood consumed in this country is being imported into the United States. And those figures are going to grow over the next 5 years. At the same time, we have seen a significant reduction in resources dedicated to inspections. Over the period of the last 5 years, there has been a 22-percent reduction of support for inspections and food safety in the Food and Drug Administration.

The Department of Agriculture has primary responsibility for meat and poultry. The Food and Drug Administration has primary responsibility for inspection of all other food. The increase in imports in these other food categories—produce, seafood, etc.—inspected by FDA would be one factor which could justify the increase that is included in the Harkin amendment. But that really does not tell the whole story, Mr. President.

To understand the whole story, we have to understand the very dramatic changes which have taken place in terms of our food supply.

For example, let's look at E. coli, which occurs naturally in our bodies. In the last 20 years, E. coli has mutated to be more virulent and even deadly. This was illustrated today by my friend and colleague from Illinois, Senator DURBIN, and illustrated by the food disease outbreaks that we have seen from January to July of 1998.

We are not just saying that the appropriations haven't kept up with the need, as important as that is, and that ought to justify it, but there are dramatic differences in the eating habits of the American people. More people are eating out. More people are eating products that are coming from different countries. More Americans are storing their food over longer periods of time. All of this is having an impact in terms of the increased risk from foodborne pathogens and the increased occurrence of foodborne illness.

The bottom line, Mr. President, is that foodborne diseases are much, much more dangerous today than they were 3 years ago, 5 years ago, 10 years ago. You are getting a change in quantity and the severity of the illnesses, the virulence of foodborne pathogens and their impact on human beings.

Antimicrobial resistance contributes to this phenomenon, and those in the pharmaceutical industry see it every single day. They believe that this is one of the very significant new phenomena in the whole area of health science. It is reflected in the severity of these illnesses. They are deadly today. They don't just give you a stomach ache; they kill you.

That is why I believe this amendment is of enormous importance. We need to have the kind of support that this amendment provides, to make sure that we, as Americans, are going to have the safest food supply in the world. We do. But it is threatened. For us not to understand the risk is foolishness. I believe this amendment, with its offsets, is justifiable and of enormous importance.

I thank the Senator from Iowa for his leadership in this area. I commend him for his legislation and for the seriousness with which he has approached it and for his constancy in pursuit of it. We are very much in your debt.

Even with this, Mr. President, I think all of us have a responsibility of watching, and watching carefully, what is happening to our food supply as we move ahead in these next months and years. Tragically, if we fail to do this, and we see the kind of tragedies that are bound to take place, we will have, once again, I think, in an important way, failed to meet our responsibilities to provide protections for the American people in the most basic and fundamental way.

Every day, more Americans are stricken with food poisoning. Children and the elderly are especially at risk.

Outbreaks of foodborne illness are increasing. The toxicity of bacteria is increasing. Yet resources to combat these festering problems are decreasing. Without additional resources, FDA and the Department of Agriculture cannot act effectively to prevent these illnesses. The American public deserves better.

In the last two months: over 400 people became ill and 74 were hospitalized in 21 states from *Salmonella* in dry cereal; 6,500 people in Illinois became ill from salad contaminated with *E. coli*; 40 people became ill and almost half were hospitalized because of an outbreak of *E. coli* in cheese; and over 300 people became ill in six states from bacteria in oysters.

These cases are a small sample. According to the Congressional General Accounting Office, foodborne illnesses affect up to 80 million citizens a year and cause 9,000 deaths. Medical costs and lost productivity are estimated at $30 billion. This is not a problem that we can ignore.

Michael Osterholm, state epidemiologist for the Minnesota Department of Health, condemned the lack of action after a recent outbreak in the state. He said that, ''If we don't do better, and we don't give the FDA more money, more events like this are going to happen. Right now, we don't seem to have the resources or the will to keep something like this from happening again. As long as we don't, we will have other outbreaks.''

The old wisdom does not apply. You can't just cook your food more thoroughly to avoid these illnesses. Harmful bacteria are appearing in virtually all food products—juice, lettuce, even cereal.

Our amendment will provide $73 million in additional funds to support greater monitoring, education, research, and enforcement to address this growing problem.

We have the ability to prevent most foodborne illnesses. Improved monitoring allows earlier detection and an earlier response to outbreaks. Increased food inspections are needed to keep unsafe food out of our stores and off our dining room tables.

Expanded research is needed to detect and identify dangerous organisms likely to contaminate food. The need is especially great with respect to imports of fresh produce and vegetables.

Our amendment will provide the resources needed to perform these essential activities. It will mean 150 new inspectors for FDA to focus on food imports, which have more than doubled since 1992. Yet during that same period, FDA resources devoted to imported foods dropped by 22 percent. As a result, FDA now inspects less than 2 percent of imported food. Clearly, we have to do better.

Our amendment would also provide funds to enhance ''early warning'' and monitoring systems needed to detect and respond to outbreaks. These systems will also provide information to prevent future outbreaks. Early detection and control are essential to ensure the safety of every American.

In addition, our amendment will fund research essential to understand dangerous organisms in food. Many cannot be identified today. Others have developed resistance to traditional methods of preserving food. Still others have developed resistance to antibiotics. Clearly, additional research is needed to protect the food supply.

We have broad support for this amendment. The food industry, consumer groups and the public all favor increased funding. Food safety affects every American every day.

Without additional resources, we will continue to see the escalation of these outbreaks. Congress must act to ensure the safety of the food supply for all Americans. The American people deserve to know that the food they eat is safe, no matter where it is grown, processed, or packaged.

I thank the Senator and urge our colleagues to support this amendment.

Mr. HARKIN. I want to thank the Senator from Massachusetts for his kind words. But more than that, I want to thank him for his efforts through the years to make sure we had a Food and Drug Administration that was on the side of consumers in this country, a strong Food and Drug Administration that made sure that we could have confidence when we went to the drugstore or to the grocery store to get our food, drugs and medicine, that they would indeed be safe. I want to thank the Senator from Massachusetts for his leadership in that area and thank him for his kind and generous support of this amendment.

Everything he said is right on mark. It is not just the consumers, I say to my friend from Massachusetts. I earlier had some comments from people representing the Grocery Manufacturers Association, the Cattlemen's Beef Association, the Broiler Council, the National Food Processors Association, all of whom basically said we need better surveillance, we need better risk assessment, we need better education out there. That is what this amendment does. It is the processors, the wholesalers—everyone recognizes that this is a new phenomenon, as the Senator from Massachusetts said, something new we have not experienced in the past. Everyone recognizes the need to get on top of this.

Mr. KENNEDY. Will the Senator yield?

Biologically, we have E. coli in our bodies, and humankind has always had E. coli, but it was not the deadly strain we are seeing today. Twenty years ago we were not even aware of the E. coli O157:H7 strain that is deadly, and we increasingly see this deadly strain. How many more outbreaks do we have to have before we act?

This is why I think this amendment is so important, because of the increased danger that these outbreaks pose for our people. Particularly vulnerable are the children and the seniors. With the offset that you have proposed, I cannot understand the reluctance to protect the consumer, rather than taking our chances.

I find it difficult to understand why we wouldn't have it accepted.

Mr. HARKIN. You are right about E. coli. I counted up in June of this year, this last month, and we had six E. coli outbreaks of food poisoning in this country, of a strain of E. coli that didn't exist 20 years ago. It wasn't there. And now it is here. It is not only making people sick, but killing kids.

There are new pathogens that become more virulent. The surveillance systems we have in place and the risk assessment and the other inspection systems we have—the FDA, as the Senator knows, only on average inspects our food processing plants once every 10 years.

Mr. KENNEDY. It is less than 2 percent of the imported products that are being inspected; 2 percent. We are seeing a doubling of the imported foods that are coming into this country and from a greater number of countries around the world. We are looking at less than 2 percent and the number of imports will be doubling.

Mr. HARKIN. I wonder how many consumers know that only 2 percent of all the produce they eat that comes from outside this country is ever inspected—2 percent. The rest of it, who knows what is on that stuff when it comes to this country. The consumers don't know this. And as the Senator said, it will go up in the future. We will get more and more of that produce from other countries. That is why this is really needed.

I thank the Senator for his support and his comments on this.

Mr. President, there is an editorial that appeared in today's Los Angeles Times that I was just made aware, calling on us to do something about food safety. Obviously, they probably didn't know about my amendment. But they did say.

> . . . the U.S. Senate can take a big step to combat food contamination by restoring all or most of the $101-million initiative the Clinton administration has proposed to improve food safety. The money would go to hire new safety inspectors, upgrade technologies, and bring coherence to disjointed oversight.
>
> So far, The Senate has allocated only a piddling $2.6 million for the initiative at the U.S. Department of Agriculture and nothing at all at the Food and Drug Administration.

The editorial went on to say that we needed more funding. I will quote the last paragraph of the editorial:

> Food safety is an unassailable cause. There are some things that only government can do, and guaranteeing the wholesomeness of our food supply is one of them.

I ask unanimous consent that the editorial from the Los Angeles Times of this morning, Thursday, July 16, 1998, be printed in the RECORD.

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

STARVING FOOD SAFETY

Americans now enjoying their summer picnics may suffer a glimmer of anxiety over recent outbreaks of food-borne illness: 6,500 people became sick in Illinois last month after eating commercial potato salad, and E. coli bacterial contamination occurred in fruit juice and lettuce that originated in California. Today, the U.S. Senate can take

a big step to combat food contamination by restoring all or most of the $101-million initiative the Clinton administration has proposed to improve food safety. The money would go to hire new safety inspectors, upgrade technologies and bring coherence to disjointed oversight.

So far, the Senate has allocated only a piddling $2.6 million for the initiative at the U.S. Department of Agriculture and nothing at all at the Food and Drug Administration. The shame of this penny-pinching is that it comes when lawmakers are spending like drunken sailors elsewhere, for instance in the pork-laden transportation bill.

The need for better food safety oversight could not be stronger. The Centers for Disease Control estimated that this year 9,000 Americans will die and millions will fall seriously ill because of tainted foods, numbers that have been growing. CDC officials aren't sure why those statistics are rising, though they suspect part of the reason may be improved detection and the increase in imported foods bearing bacteria and other pathogens to which Americans have little resistance. Food imports have doubled in the last seven years and are expected to increase by one-third in the next three years.

The administration's Food Safety Initiative would get at this problem first by hiring new inspectors. Less than 2% of imported food is inspected now because the FDA's budget has not grown along with imports. Sen. Thad Cochran (R-Miss.), the chairman of the Senate committee that decided not to fund the initiative at the FDA, suggested that some of the FDA's duties be delegated to states and local governments, but the increasing movement of food across state lines and national borders argues for just the opposite: a coordinated national strategy.

National planning, for instance, is the only way to successfully deploy new technologies like DNA fingerprinting, which within hours allows federal inspectors to trace the genetic signature of, say, a dangerous bacterium on apples marketed in the West back to the farm where the fruit was harvested in Maine. Funding the initiative would enable federal agencies to continue efforts to install such technology in sites around the country and train workers to quickly identify and track food pathogens. And Congress needs to consider pending bills to give the FDA and the USDA the power to recall food and to create a single food safety agency to consolidate scattered oversight.

Food safety in an unassilable cause. There are some things that only government can do, and guaranteeing the wholesomeness of our food supply is one of them.

Mr. HARKIN. Mr. President, one other thing. I listened to the comments made by the Senator from Illinois, Senator DURBIN, when he very poignantly told the story of the young child who died in Illinois. I just point out again that these outbreaks are growing with rapidity and showing up in the oddest of places. For example, last month, dozens of children got sick—again, with this E. coli 0157H7—in Atlanta after swimming in a public pool.

Many of these children spent time on dialysis for kidney failure. This was just last month. Now, the infection they got was the same strain of E. coli that came from a local ground beef recall in an outbreak in Atlanta 2 weeks earlier. So 2 weeks earlier, there was an outbreak of E. coli from a ground beef recall, and now it shows up in a swimming pool 2 weeks later. Children in five States were infected from this ultimately foodborne illness. So it started out as a foodborne illness and then it got into a swimming pool. Dozens of kids got sick and some spent time on kidney dialysis.

So that is how virulent some of these strains have become. Not only do they show up in the food, they are so virulent that not even the chlorine in the swimming pool could kill it.

Again, Mr. President, I think this amendment deserves widespread support. I point out again that the President asked for $101 million to fully fund his food initiative. I wish we could do it. We should do it. But because of the problem with offsets and points of order and getting 60 votes, we had to look around to find legitimate offsets that we could use. As I said, we found offsets for $66 million. So this brings the funding up to $66 million. It is not up the full $101 million, but it brings it to $68 million. Those offsets, of course, were the money that we got from taking away the Federal Government's subsidizing of tobacco, $15 million from the CCC computer account, and $13 million from the ARS buildings and facilities account.

I want to make a couple of things very clear before I close my comments. I have heard some talk around that there is some new enforcement authority here. I want to make it clear that there is no new enforcement authority in my amendment.

Secondly, there are no new user fees for the meat industry—not one bit of user fees for the meat industry in this amendment.

In the bill now, there is $2.6 million for this Food Safety Initiative. The House only put in $15 million. The President asked for $101 million. The amount that this amendment would increase it to would be $66 million.

I yield the floor.

Ms. MOSELEY-BRAUN. Mr. President, last month, more than 4,000 Illinoisans were sickened by an illness that was ultimately traced to potato salad contaminated by E. Coli bacteria. A few weeks ago, thousands of boxes of breakfast cereal were recalled after an outbreak of salmonella in the cereal infected more than 200 people, including residents of Illinois. In fact, according to the Center for Science and the Public Interest, the number of FDA-regulated food products that have been recalled due to contamination has increased fivefold over the past ten years.

Health officials say that food poisoning causes more than 30 million illnesses and thousands of deaths annually. Consequently, the American people are increasingly concerned about the safety of our food supply. In 20th century America, this is unacceptable. No American should have to fear their food.

That is why I support this amendment offered today by Senator HARKIN to restore funding for the President's Food Safety Initiative. This amendment will provide $93 million to strengthen efforts by the United States Department of Agriculture and the Food and Drug Administration to address food safety issues.

The amendment provides $33 million to recruit more scientists in the war against food dangers, and for developing new technologies for combating hazardous pathogens. $28 million is provided to check food imports at the border, increase seafood safety, and boost fruit and vegetable inspections. Twelve million is provided for consumer awareness campaigns so that children, cooks, and those who handle food at summer festivals can learn safer ways to prepare and handle food.

This is not the first proposal to come before Congress that addresses food safety. Many of our colleagues have introduced legislation to respond to this growing problem. Senator HARKIN has introduced S. 1264, which I have cosponsored, that would increase the ability of the USDA to recall tainted meat and poultry products. My distinguished colleague from Illinois, Senator DURBIN, has introduced a bill to consolidate and coordinate federal food safety improvements that are currently scattered among a labyrinth of agencies. My colleague from Maryland, Senator MIKULSKI, has proposed increasing FDA oversight on foreign produce.

Regrettably, however, no significant action has occurred on these bills in this Congress. Meanwhile, the outbreaks of food illnesses are on the rise nationwide. Mr. President, we can do better. There is a time to debate, and a time to act, and today, Congress has a real opportunity to act. Let us pass this amendment and strengthen our federal food protection system so that the citizens of our country need not worry each time they reach for a scoop of picnic potato salad, a home-grilled hamburger, or a morning bowl of cereal. Doing nothing is not an option, and that is why I urge my colleagues to vote for this amendment.

Mr. LEAHY. Mr. President, let me begin by thanking Chairman COCHRAN and his staff for pulling together this appropriations bill under very difficult circumstances. Not only was there a very low allocation, but a number of the requests were based on assumed revenue from new fees. Under these circumstances, Senator COCHRAN and Senator BUMPERS did an admirable job balancing all the agriculture programs.

However, today we are calling attention to an urgent need in our country: the increasing outbreaks of food poisoning across the country. Almost a year ago we witnessed one of the largest beef recalls in U.S. history. Fortunately, what could have been a national health disaster was caught early and stopped. But the underlying problem remained. To address this problem the Administration requested $96 million in new food safety funds for the U.S. Department of Agriculture and the Food and Drug Administration to reduce the hazards associated with bacteria, viruses and parasites in our food

supply. Although I realize the budget allocation constrains us from funding this full amount, I join Senator HARKIN to offer an amendment to fund the most urgently needed proposals of the Food Safety Initiative.

Mr. President, there are many problems that arrive on Congress's doorstep that we can do little about. This is a problem we can—and should—address. And we need to address this problem now. A year after the 25-million pound beef recall we are still seeing headlines about new outbreaks. Each year more than 30 million Americans suffer a foodborne illness, and 9,100 die. The cost to the nation is anywhere from $5.6 billion to more than $22 billion.

This is a national problem, ranging from cheese and egg contamination in the Pacific Northwest to tomatoes in Minnesota to shellfish and strawberries in the South. E. coli outbreaks in recent years have also been traced to contaminated sprouts, lettuce, salami and other products. Two summers in a row, in 1996 and 1997, thousands of illnesses were linked to imported raspberries containing a parasite, Cyclospora, that is not found in this country.

After each one of these scary outbreaks, the American public is left asking the same questions—questions that the programs to be funded by this amendment and the President's Food Safety Initiative will help answer: How do these viruses move so swiftly through our food system, how can they be prevented, and where might they show up next?

The United States enjoys the safest food supply in the world, but we can and should do better. Americans know the risk to our food supply is growing. Recent covers of Newsweek, U.S. News & World Report and newspapers across the country have asked if we can continue to trust our food supply. As a nation, we cannot afford an erosion of the public's trust in the safety of our food.

More than 44 percent of Americans think our food supply is less safe than 10 years ago. FDA-regulated plants are only inspected on average once every 10 years. FDA import inspections have declined dramatically in just the last four years, so that now less than two percent of FDA-regulated imported food is subject to any type of inspection.

Our amendment will increase inspections of imported food. It will fund development of improved inspection practices to detect threats to our food supply earlier and stop massive outbreaks from occurring.

Most of us as adults have had a case of food poisoning. Anyone who has had food poisoning can imagine how much worse it is for a child. Think of what it is like when these outbreaks of e-coli, which can be devastating to adults, but can be critical and even life-threatening to children.

Every one of us has a stake in this, whether we are involved in producing or consuming these food products, or whether or not we are parents who have to worry about what we are feeding our children. Ask people back home: Is there anything that is going to affect you more several times a day than the safety of the food you eat? Nothing else will. This is something we can and must do.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, this is an interesting part of the President's budget. When we reviewed it, we noticed, first of all, that over $400 million in new user fees were proposed by the President to be assessed on the food and poultry processing plants all around the country to generate money to pay for the inspections that are performed in those plants by Federal employees. This was a proposal for a change in the law and the legislation.

Our committee, of course, doesn't have jurisdiction to change the law. We simply appropriate the money, consistent with existing law. And so without the jurisdiction to make those changes, our committee could not consider that as a part of our bill. The legislative committees in the House and Senate have not acted on these proposed user fee impositions, and so there are no funds available to be allocated, as the President proposed, to pay for the Food Safety and Inspection Service of the Department of Agriculture.

Nonetheless, our committee approved and suggested in our legislation to fund increases in the Food Safety and Inspection Service's account. So our appropriation that is recommended by this committee for Food Safety and Inspection Service activities amounts to $605,149,000, as compared with the administration's request for funding the Food Safety and Inspection Service of $149,566,000. That is more than $350 million in additional funding that this committee has proposed than what the President recommended be appropriated for that activity.

Now, when you generate that kind of fund in your proposed budget, you have an opportunity to spread those proposed dollars around and spend it elsewhere. That is what the President has done, and that has made up for his so-called Food Safety Initiative—and more. The Food Safety Initiative—so-called ''new initiative''—calls for the expenditure of about $100 million in new funding added to a variety of different programs in the Department of Agriculture and the Food and Drug Administration.

Our committee is not critical and not, in any way, opposing these increased expenditures in the initiatives that the President has requested. Our budget allocation didn't give us the luxury, though, of an additional $350 million. Our allocation doesn't presume any increase in funding for discretionary programs this year—no increase. We are all operating under the Balanced Budget Act restrictions, under the allocation that is provided to subcommittees like the Agriculture Appropriations Subcommittee. So if we increase something, we have to take the money from other accounts.

So we did provide not only the full amount needed to continue the inspections of meat and poultry inspectors throughout the country, with no new increase—no new user fees, no new taxes on those plants. But we also provided increases in funding for the Agriculture Research Service, Food Safety Research Program, and for the Food and Nutrition Service, Food Safety Grant Program. These are additions over last year's levels. We were able to find other offsets in the budget to accommodate those increases.

So I suggest that the committee has been responsive to the need to continue to upgrade the quality and the aggressiveness of our Food Safety Research and Inspection Programs. We think, of course, that there can be more done, it can be a more efficiently operated system.

For that reason, some of us on the Governmental Affairs Committee are actively participating in the investigation that is chaired by the distinguished Senator from Maine, Senator COLLINS, who is looking into the issues presented on the imported foods—fruits and vegetables, primarily—that have to be inspected under the jurisdiction of the Food and Drug Administration. She has done a wonderful job leading the staff of that committee to try to find out what the options are for improving those activities, making sure that they are doing as good a job as can possibly be done to accommodate the needs resulting from the huge increases in imported foodstuffs that are coming into the country. These are enormous challenges.

I don't think anybody has the magic solution to the problem. I think on both sides of the aisle we are very interested in solving the problems that are presented. We have heard some very impressive speeches made today on that subject. We can continue to make speeches. But I think we should continue to work together—that is what I suggest we do—with the administration, with the Congress, to try to do the best possible job.

I think the American people can be reassured that an enormous amount of effort and an enormous amount of money is being invested to achieve that goal. If you add up the total of all of the dollars that are appropriated, we are spending more money to not only inspect the meat and poultry that is being processed in this country, but fruits and vegetables as well. Research and education programs, how to handle foodstuffs, and at the farm on how to produce the foods so they will be free from contamination, an enormous amount of effort is being invested.

So we hope this amendment can be accepted by the Senate, frankly. Offsets have been identified in a number of areas. We have tried to get the administration's reaction to these offsets. We haven't heard from them on

some of them. We have checked with the Congressional Budget Office to see if this amendment violates the Budget Act. We have been assured that it does not.

So because we are going to have to continue to work to resolve our differences with the House, there may be some adjustments in which the House insists. But we will work very hard to make sure that when we come back from conference to the Senate with our conference report that it will reflect a genuine effort and a sizable investment of discretionary funds in the food safety area, both for the Department of Agriculture's activities and the Food and Drug Administration's activities.

Mr. President, I know of no other Senators who have requested an opportunity to speak on the amendment. I am prepared to go to a vote and suggest that we agree to the amendment.

Incidentally, I have been authorized to express the support for that recommendation from the Senator from Arkansas who is the ranking member of the Agriculture Appropriations Subcommittee.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

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 Iowa. 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. FORD. I announce that the Senator from Ohio (Mr. GLENN) is necessarily absent.

The PRESIDING OFFICER (Mr. BROWNBACK). Are there any other Senators in the Chamber who desire to vote?

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

[Rollcall Vote No. 207 Leg.]

YEAS—65

Abraham	Durbin	Lugar
Akaka	Feingold	Mack
Baucus	Feinstein	McCain
Biden	Frist	Mikulski
Bingaman	Gorton	Moseley-Braun
Bond	Graham	Moynihan
Boxer	Grassley	Murray
Brownback	Hagel	Reed
Bryan	Harkin	Reid
Bumpers	Hutchison	Robb
Byrd	Inouye	Rockefeller
Campbell	Jeffords	Roth
Chafee	Johnson	Sarbanes
Cleland	Kennedy	Shelby
Cochran	Kerrey	Snowe
Collins	Kerry	Specter
Coverdell	Kohl	Stevens
D'Amato	Landrieu	Torricelli
Daschle	Lautenberg	Warner
DeWine	Leahy	Wellstone
Dodd	Levin	Wyden
Dorgan	Lieberman	

NAYS—34

Allard	Bennett	Burns
Ashcroft	Breaux	Coats
Conrad	Helms	Roberts
Craig	Hollings	Santorum
Domenici	Hutchinson	Sessions
Enzi	Inhofe	Smith (NH)
Faircloth	Kempthorne	Smith (OR)
Ford	Kyl	Thomas
Gramm	Lott	Thompson
Grams	McConnell	Thurmond
Gregg	Murkowski	
Hatch	Nickles	

NOT VOTING—1

Glenn

The amendment (No. 3175) was agreed to.

CHANGE OF VOTE

Mr. DOMENICI. Mr. President, on rollcall vote No. 207 I voted ''aye.'' It was my intention to vote ''nay.'' Therefore, I ask unanimous consent that I be recorded as a ''nay.'' This would not affect the outcome of the vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

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

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I have an amendment which I want to send to the desk to be considered. I talked to the ranking member, but I wasn't able to talk to the floor manager of the bill. I am willing to accept a short time agreement on this amendment.

Mr. BUMPERS. Will the Senator take 10 or 15 minutes?

Mr. DODD. I will be happy to take a very brief time agreement. If you have some other agenda you want to move ahead, I say to the floor manager, I will be happy to consider some other program the floor manager may have.

Mr. COCHRAN. Mr. President, if the Senator will yield.

Mr. DODD. I am happy to yield.

Mr. COCHRAN. I appreciate the Senator's inquiry. I have no objection to your offering the amendment. I haven't seen the amendment. I asked my staff what it was about. They haven't seen it, either. We are trying to get in touch with the legislative committee. We understand it is a legislative subject, not appropriations at all. It doesn't ask for spending any more money or any less money, but it imposes a burden on an industry, and we are trying to find out what the implications are. You can offer it.

AMENDMENT NO. 3176

(Purpose: To amend the Federal Food, Drug, and Cosmetic Act to require the Secretary to ensure timely notification of certain recalls)

Mr. DODD. Mr. President, I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Connecticut [Mr. DODD] proposes an amendment numbered 3176.

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

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

The amendment is as follows:

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

SEC. ___. NOTIFICATION OF RECALLS OF DRUGS AND DEVICES.

(a) DRUGS.—Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) is amended by adding at the end the following:

''(o)(1) If the Secretary withdraws an application for a drug under paragraph (1) or (2) of the first sentence of subsection (e) and a class I recall for the drug results, the Secretary shall take such action as the Secretary may determine to be appropriate to ensure timely notification of the recall to individuals that received the drug, including using the assistance of health professionals that prescribed or dispensed the drug to such individuals.

''(2) In this subsection:

''(A) The term 'Class I' refers to the corresponding designation given recalls in subpart A of part 7 of title 21, Code of Federal Regulations, or a successor regulation.

''(B) The term 'recall' means a recall, as defined in subpart A of part 7 of title 21, Code of Federal Regulations, or a successor regulation, of a drug.''.

(b) DEVICES.—Section 518(e) of such Act (21 U.S.C. 360h(e)) is amended—

(1) in the last sentence of paragraph (2), by inserting ''or if the recall is a class I recall,'' after ''cannot be identified''; and

(2) by adding at the end the following:

''(4) In this subsection, the term 'Class I' refers to the corresponding designation given recalls in subpart A of part 7 of title 21, Code of Federal Regulations, or a successor regulation.''.

(c) CONFORMING AMENDMENT.—Section 705(b) of such Act (21 U.S.C. 375(b)) is amended—

(1) by striking ''or gross'' and inserting ''gross''; and

(2) by striking the period and inserting '', or a class I recall of a drug or device as described in section 505(o)(1) or 518(e)(2).''.

Mr. DODD. Mr. President, this is a very straightforward proposal and is similar to legislation that was offered by my colleague in the other body, Congressman SHAYS of Connecticut. This amendment deals with the issue of defective pharmaceutical products and medical devices that have been recalled by the manufacturer.

We almost had a very tragic case in Connecticut several months ago involving recalls, which provoked this piece of legislation. A child in Connecticut, a young boy by the name of Matthew McGarry, has food allergies to peanuts and needs a device known as an Epi-Pen to counteract the severe reactions—seizures or even death—that could result if he inadvertently eats certain foods. The Epi-Pen that Matthew relies on was recalled by the manufacturer because it was found to have substantial leaks in it, rendering it ineffective.

Matthew was fortunate that his school nurse, Betty Patterson, heard of the recall and immediately notified his parents, Karen and William McGarry, that they needed to replace the product. Had she not heard of the recall and had young Matthew had an attack, he very well could have died. The family is very well aware that a tragedy was averted.

His family and other Connecticut families brought this to the attention

of Congressman SHAYS and myself and suggested this would be an appropriate area for some thoughtful legislation to require that consumers be notified when dangerous products are taken off the market—a requirement not currently found in law.

Consumers have the right to be notified when the cars they drive or the toys their children play with are unsafe. Shouldn't they have the same right when it comes to drugs and devices found in every family's medicine cabinet?

The recall process presently relies almost exclusively on the good-faith efforts of manufacturers, wholesalers and retailers. Most of the time it works very well to protect consumers. However, a recent spate of recalls involving these Epi-Pen devices—first in October of 1997 and most recently in May of this year—has highlighted the need to better ensure that consumers, when appropriate, are directly informed that a drug or device may be dangerous.

An Epi-Pen is a device, as my colleagues, I am sure, are aware, that injects epinephrine and is used by children with severe food allergies to counteract life-threatening reactions. Due to a defect in the manufacturing process, some lots of the device were found to leak the encapsulated drug, potentially leaving patients with an amount of the drug insufficient to counter an allergic response.

A class I recall of the product was issued, indicating a reasonable possibility that the use of the product could cause serious health effects or death. Despite the severity of the defect, the recall notification failed to notify consumers whose children relied on these products, either because the retailers did not pass along the notification in a timely fashion or because the retailers themselves received notification days after the recall was first issued.

In an effort to provide the public with better and more timely notice of the most serious recalls, this amendment will, for the first time, explicitly require the Food and Drug Administration to ensure that consumers receive prompt notification of class I recalls.

How the directive will be accomplished will be left up to the FDA. We don't mandate a specific approach. The FDA could, for example, encourage distributors and pharmacies to employ more effective and rapid notification technologies, a shift that some in the industry are already advocating. We do not micromanage the notification process. We are just suggesting that better mechanisms be put in place to give consumers who use these products and rely on them a higher degree of confidence.

I hope my colleagues can support this straightforward amendment. I hope that my colleagues will recognize that if we do not take up this issue now, we run the risk that some other child won't be as lucky as Matthew and will suffer serious harm. For those reasons, Mr. President, I urge adoption of the amendment.

Mr. KENNEDY. I understand that since the Agency already has authority under the devices statute to require both recalls and notifications, amending these provisions to refer only to Class 1 recalls could be interpreted as limiting the Agency's existing authority. Am I correct that your intent is not to limit the Agency's existing authority, either with respect to recalls or notification?

Mr. DODD. That is correct. What I intend by the amendment is to make certain that in the case of every Class 1 recall FDA does provide notice to the public. I certainly would not want to do anything to suggest that such authority does not now exist, or that such authority does not exist for Class 2 and Class 3 recalls, or other actions as deemed appropriate for public notice by FDA. I just want to make certain that they use their authority in all Class 1 recalls.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Will the Senator be willing to set his amendment aside temporarily to allow the Senator from Virginia to proceed?

Mr. DODD. Yes.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Dodd amendment be temporarily laid aside to allow Senator Robb, who has been waiting patiently for about 3 days, to offer his amendment—it should not be long—and that immediately upon the adoption or disposition of his amendment, we return to the Dodd amendment.

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

The Senator from Virginia.

Mr. ROBB. Thank you, Mr. President. I thank the distinguished Senator from Arkansas and the distinguished Senator from Mississippi.

AMENDMENT NO. 3177

(Purpose: To waive the statute of limitations barring certain discrimination complaints against the Department of Agriculture)

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Virginia [Mr. ROBB], for himself, Mr. GRASSLEY, Mr. CLELAND, Ms. LANDRIEU, Mr. COVERDELL, Mr. HOLLINGS and Ms. MOSELEY-BRAUN, proposes an amendment numbered 3177.

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

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

The amendment is as follows:

On page 13, line 14, strike $97,200,000 and insert $92,200,000, and on page 14, line 17, strike $437,082,000 and insert $432,082,000.

On page 18, line 1, strike $424,473,000 and insert $419,473,000.

On page 19, line 23, strike $93,000,000 and insert $88,000,000, on

On page 67, after line 23, add the following:

SEC. . Expenses for computer-related activities of the Department of Agriculture funded through the Commodity Credit Corporation pursuant to section 161(b)(1)(A) of P.L. 104–127 in fiscal year 1999 shall not exceed $50,000,000; provided, that Section 4(g) of the Commodity Credit Corporation Charter Act is amended by striking $178,000,000 and inserting $173,000,000.

SEC. . WAIVER OF STATUTE OF LIMITATIONS FOR CERTAIN DISCRIMINATION CLAIMS.

(a) DEFINITION OF ELIGIBLE CLAIM.—In this section, the term ''eligible claim'' means a non-employment-related claim that was filed with the Department of Agriculture on or before July 1, 1997 and alleges discrimination by the Department of Agriculture at any time during the period beginning on January 1, 1981, and ending on December 31, 1996,

(1) in violation of the Equal Credit Opportunity Act (15 U.S.C. 1691 et seq.) in administering—

(A) a farm ownership, farm operating, or emergency loan funded from the Agricultural Credit Insurance Program Account; or

(B) a housing program established under title V of the Housing Act of 1949; or

(2) in the administration of a commodity program or a disaster assistance program.

(b) WAIVER.—To the extent permitted by the Constitution, an eligible claim, if commenced not later than 2 years after the date of the enactment of this Act, shall not be barred by any statute of limitations.

(c) ADMINISTRATIVE PROCEEDINGS.—

(1) IN GENERAL.—In lieu of bringing a civil action, a claimant may seek a written determination on the merits of an eligible claim by the Secretary of Agriculture if such claim is filed with the Secretary within two years of the date of enactment of this Act.

(2) TIME PERIOD FOR RESOLUTION OF ADMINISTRATIVE CLAIMS.—To the maximum extent practicable, the Secretary shall, within 180 days from the date an eligible claim is filed with Secretary under this subsection, conduct an investigation, issue a written determination, and propose a resolution in accordance with this subsection.

(3) HEARING AND AWARD.—The Secretary shall—

(A) provide the claimant an opportunity for a hearing before making the determination; and

(B) award the claimant such relief as would be afforded under the applicable statute from which the eligible claim arose notwithstanding any statute of limitations.

(d) STANDARD OF REVIEW.—Federal courts reviewing an eligible claim under this section shall apply a de novo standard of review.

(e) LIMITATION ON ADMINISTRATIVE AWARDS AND SETTLEMENT AUTHORITY AND EXTENSION OF TIME.—

(1) LIMITATON ON ADMINISTRATIVE AWARDS AND SETTLEMENT AUTHORITY.—A proposed administrative award or settlement exceeding $75,000 (other than debt relief) of an eligible claim—

(A) shall not take effect until 90 days after notice of the award or settlement is given to the Attorney General; and

(B) shall not take effect if, during that 90-day period, the Attorney General objects to the award or settlement.

(2) EXTENSION OF TIME.—Notwithstanding subsections (b) and (c), if an eligible claim is denied administratively, the claimant shall have at least 180 days to commence a cause of action in a Federal court of competent jurisdiction seeking of review of such denial.

Mr. ROBB. Mr. President, for over a year now I have been working with many minority farmers to address the problem of discrimination at the U.S. Department of Agriculture. I am pleased that we have finally found a

way to provide relief to these farmers. I thank, in particular, the Senator from Mississippi for his efforts and commitment to work out the details of this important amendment.

This amendment will provide long overdue relief for many minority farmers who were the victims of systematic and egregious discrimination by USDA officials—discrimination which has been acknowledged by Secretary Glickman and the USDA.

This amendment, which is very similar to language which has already passed in the House, seeks to remedy this problem by imposing a new statute of limitations for farmers who experienced discrimination between 1981 and 1996 and who filed complaints to seek redress.

As I discovered about a year or so ago, many farmers were denied credit opportunities and were discriminated against when seeking housing loans, and obtained no relief from USDA when they complained of such discrimination.

These farmers filed discrimination complaints with the USDA's Office of Civil Rights in the early 1980's. However, they were never told that, in 1983, the Office of Civil Rights at USDA was abolished. Furthermore, they had no notice that their claims were not even being investigated despite being led to believe otherwise.

These farmers are barred, only by the statute of limitations, from obtaining relief from this mistreatment. Whether it is a racial slur or a denial of credit opportunities, discrimination is unconscionable and it is intolerable, and it is particularly appalling when such discrimination is exhibited by Government officials—officials employed by our Government to serve all Americans, as was the case with the USDA.

Studies, reports, and task forces in 1965, 1970, 1982 and 1990, have all documented the same inherent problems at USDA—continued discrimination and mistreatment of minority and socially disadvantaged customers.

It is estimated by the Congressional Budget Office that the relief for these farmers' claims is approximately $15 million in fiscal year 1999 and $42 million over the next 3 years. That means that the Congressional Budget Office believes that the Government legitimately owes $15 million in order to provide relief to farmers who were discriminated against by our Government officials.

The statute of limitations is now the only obstacle standing in the way of these farmers getting the relief they deserve. And this amendment simply removes that obstacle.

Inexplicably, the discrimination that many minority farmers suffered at the hands of USDA officials still has not been punished or mitigated. This amendment will mitigate for the farmers who were discriminated against.

Too many farmers and communities have been affected by this travesty, Mr. President. I am pleased that the U.S. Senate has chosen not to remain silent.

In reaching a resolution, I particularly thank Senator COCHRAN, Senator BUMPERS, Senator GRASSLEY, Senator LUGAR, and their staffs, and my staff for their hard work. I also thank Secretary Glickman and his staff at USDA and the staff at the Department of Justice for their commitment and hard work on this amendment.

Finally, I especially acknowledge and thank the White House for its unwavering support of this amendment and of these farmers. While it has been a challenge to work on the spending issues, and reach agreement on the offsets, I believe the result was well worth the effort. What we have done today, Mr. President, is right, just, and long overdue.

With that, I yield the floor and seek action on the amendment.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, in deciding on the offsets for this amendment, one of the offsets for $5 million in savings is from funds that would be used by the Department of Agriculture for information technology. These funds are provided through the Commodity Credit Corporation. I have a letter from the Secretary of Agriculture responding to that offset and suggesting that the Department supports it. I want to be sure that we understand one provision in this letter and its implications. He says:

> The statute of limitations waiver is one of my highest priorities in this legislation, and this amendment and its offset have my support. If enacted, USDA will not seek to restore the computer spending reduction through future appropriations.

With that understanding, Mr. President, I am able to support the amendment. It has been my intention to assist the author of the amendment in his effort to get this passed in the Senate.

What it does is to waive, as a legal defense, the statute of limitations that had run on claims that were going to be filed, or that had been filed by certain persons who claim to be the victims of discrimination by the U.S. Department of Agriculture.

This amendment does not guarantee that everybody who has a claim on the basis of discrimination is going to win or is going to prevail if the Department decides to resist. It gives the Department, though, an opportunity to negotiate those claims, to make decisions about which ones are meritorious and which ones are not.

But it does not permit the Department to use as a defense the fact that the statute of limitations has run. It was a peculiar and unique statute of limitations when it was first granted under the authority of previous legislation. It permitted claims to be filed on this basis within a window of opportunity of about 2 years. Most of them fell within this 2-year period.

Some farmers did not understand that they had to file a claim in writing and go through certain steps in order to keep that statute from running, and so there was a lot of misunderstanding about the fact that this statute had been imposed and limited to the duration within which claims could be filed.

Some lawsuits have been filed now contesting the statute. This is an effort to say to those claimants that we are not going to let you have your claim fail on the basis of not having complied with that early 2-year statute of limitations. So that is going to be removed. Your claim will be decided now on its merits. And that is up to the Department; and that is up to the claimants.

That is my understanding of the amendment. I congratulate the Senator for his initiative and his hard work in getting us to this point. We support the amendment and hope the Senate will approve it.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from the great State of Arkansas.

Mr. BUMPERS. Let me again echo the very eloquent words of the chairman, and for the purposes of the RECORD state this has been sort of a festering sore down at the Department of Agriculture for some time. I know the President is personally—very personally—interested in the extension of the statute of limitations so nobody who has a meritorious claim will be denied that claim simply because he did not understand the intricacies affecting his claim.

By the same token, I think it is well, for the RECORD, to say—and I think this is precisely what has been said by the chairman; I will simply repeat it—we are not making a judgment on the merits of a single claim. We are simply saying that if you have a claim that has merit, we are going to give you a chance to present it; and hopefully it will be decided in a very judicial way and a justifiable way.

So with that little caveat, I congratulate Senator ROBB. He has worked diligently to try to find offsets in order to offer this. He has done a magnificent job. I thank the Department of Agriculture and the White House for their cooperation.

With that, on this side of the aisle we are prepared to accept the amendment, Mr. President.

Mr. ROBB addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ROBB. I thank the Senator from Mississippi and the Senator from Arkansas for their long-suffering understanding and help on this amendment.

I add, lest anyone be concerned—or to add to the discussion which was right on the money—that any claims that exceed $75,000 will actually be reviewed by the Justice Department. So in addition to the claims being reviewed by the Department of Agriculture, the Justice Department would review a claim in excess of that particular amount. This gives an additional screen for claims that might be

viewed as excessive in any way, shape or form. But the bottom line is, as both Senators have suggested, this removes an impediment that otherwise would bar a meritorious claim. And it does nothing more than that.

Mr. COCHRAN. Mr. President, I ask unanimous consent that a copy of the letter from Secretary of Agriculture Dan Glickman to me that I referred to be printed at this point in the RECORD.

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

DEPARTMENT OF AGRICULTURE,
Washington, DC, July 16, 1998.

Hon. THAD COCHRAN,
Chairman, Subcommittee on Agriculture, Rural Development, and Related Agencies, U.S. Senate, Washington, DC.

DEAR THAD: During the Senate's consideration of the fiscal year 1999 agricultural appropriations bill, I understand the Senate may consider an amendment waiving statute of limitations preventing the Department of Agriculture (USDA) from properly resolving certain civil rights complaints. I understand further, to offset the additional spending that would result from such a provision, the amendment may reduce spending for Farm Service Agency and other USDA information technology funded through the Commodity Credit Corporation by as much as $5 million.

The statute of limitations waiver is one of my highest priorities in this legislation, and this amendment and its offset have my support. If enacted, USDA will not seek to restore the computer spending reduction through future appropriations.

I appreciate your consideration of my views and your support for this amendment.

With best personal regards, I am

Sincerely,

DAN GLICKMAN,
Secretary.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3177) was agreed to.

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

Mr. ROBB. I move to lay it on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3176

The PRESIDING OFFICER. Under the previous order, the Senator from Connecticut is recognized.

Mr. DODD. Mr. President, let me return to the amendment to mention several people here who deserve a great deal of credit for bringing this issue to the attention of Congressman SHAYS and myself.

Betty Patterson is the nurse at St. Theresa's School in Trumbull, CT. There are thousands and thousands of school nurses all across America who probably don't get enough credit for the work and job they do every day, caring for our children while they are away at school. It was Betty Patterson who came across the notification that the EPI-PEN had been recalled, and knew that one of the students in the St. Theresa school, Matthew, would need to get a safe and effective replacement.

First, I want to congratulate Betty Patterson for the tremendous job she did.

Second, I'd like to commend Karen McGarry, Mathew's mother, who, discovering that her pharmacist had not notified his patients, contacted the Connecticut Post, a major newspaper in my home State of Connecticut, to look into the matter. And I'd like to commend Michael Mayko of the Connecticut Post who wrote stories on this incident and did the checking to discover that there was no Federal law or State law that required that consumers be notified. So I want to thank him for doing so much to highlight this important story.

Of course, I want to thank Matthew himself, who is one of 1.47 million people in this country who suffer from severe allergies and must rely on products like the Epi-Pen, for telling his story.

Mr. President, I'd like to once again restate that this amendment simply says that the Food and Drug Administration, when working with manufacturers to plan a class I recall, should take all appropriate measures to ensure that consumers are directly and promptly notified. I think most would agree this should be a commonsense requirement.

For those reasons, Mr. President, I hope my colleagues will feel confident in supporting this amendment. I don't seek any recorded votes on it. If the majority and minority can accept it, I am prepared to conclude the debate and go to other amendments. I don't know what their pleasure is.

I see my distinguished floor manager rising. I yield to him.

The PRESIDING OFFICER. The distinguished floor manager.

Mr. COCHRAN. Mr. President, I appreciate the Senator's indulgence. We are trying to get the reaction of the Food and Drug Administration and the legislative committee that has jurisdiction over this subject. I don't have an answer from them yet as to whether they want me to move to table the amendment or try to amend it to make it consistent with their wishes, or to suggest that we accept it.

The Senator said that a Member of the House, the other body, has offered this as an amendment over there. Has it been passed in a freestanding bill, or is it on this bill, does the Senator know?

Mr. DODD. I say to my colleague, I am informed the bill has been introduced by Congressman SHAYS, whom I know my colleague and friend from Mississippi knows. I don't believe they have moved the bill over there.

By the way, we have checked with the FDA and the words they use—we have included and incorporated the comments of the FDA in the legislative proposal.

Mr. COCHRAN. I thank the Senator.

Mr. DODD. If my colleagues want to move to another amendment, I am more than happy to set this aside.

Mr. BUMPERS. I ask unanimous consent that the Dodd amendment be temporarily laid aside while we deal with some amendments that are agreed to, at the conclusion of which, we will automatically return to the Dodd amendment.

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

Mr. COCHRAN. Mr. President, let me thank the distinguished Senator from Connecticut for his agreement to set aside his amendment while we proceed to other business so we can near the time we are ready to conclude action on this bill. We hope that will be soon.

We have nine amendments that I think have been cleared on both sides. My proposal would be that we consider them en bloc and that they be approved en bloc, and statements relating to the amendments be printed in the RECORD, and that motions to reconsider the votes and to table the motions to reconsider be considered as passed. That will be my request. I want to be sure that we do have the list, and I will read the list for the benefit of my comanager of this bill.

There is a Brownback amendment on the census of agriculture, a Levin amendment on tree assistance, an amendment for Senators KERREY and ROBERTS on farm policies studies.

Mr. BUMPERS. Mr. President, would the Senator yield just a moment. What was the Levin amendment?

Mr. COCHRAN. The Levin amendment is regarding tree assistance—disaster assistance for tree plants.

Mr. BUMPERS. I have fire blights.

Mr. COCHRAN. It is fire blights.

A Graham amendment for country-of-origin produce labeling, a Bumpers amendment relating to sense of the Senate on program funding levels, a Feingold and Jeffords amendment on small farms, a Dorgan amendment relating to planting penalty limitation, a Craig and Lugar amendment on biodiesel fuel, and a Bumpers amendment on Rural Housing Service Award.

We had cleared a Hatch amendment on interstate meat distribution, and we understand a question has been raised by a colleague.

We understand the question has been answered, so we can now add the tenth amendment to the list, by Senator HATCH, interstate meat distribution plan, and a colloquy that would go along with that.

Those are 10 amendments that have been cleared on this side. If the distinguished comanager of the bill agrees, I am prepared to offer a unanimous consent request that they be considered en bloc and agreed to en bloc.

Mr. BUMPERS. Mr. President all of those amendments have been cleared on this side.

AMENDMENTS NOS. 3178 THROUGH 3187, EN BLOC

Mr. COCHRAN. Mr. President, I ask unanimous consent that those amendments that I read in the list be considered en bloc, agreed to en bloc, that motions to table the motion to reconsider be laid upon the table.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN] proposes amendments No. 3178 through 3187, en bloc.

The amendments agreed to en bloc are as follows:

AMENDMENT NO. 3178

(Purpose: To direct the Secretary of Agriculture to improve the Census of Agriculture by eliminating redundant questions and removing penalties)

On page 67, after line 23, add the following:

SEC. 7 . CENSUS OF AGRICULTURE.

(a) IN GENERAL.—Section 2 of the Census of Agriculture Act of 1997 (7 U.S.C. 2204g) is amended—

(1) in subsection (b) by inserting at the end the following: ''In fiscal year 1999 the Secretary of Agriculture is directed to continue to revise the Census of Agriculture to eliminate redundancies in questions asked of farmers by USDA.'';

(2) in subsection (d) by deleting in paragraph (1) ''who willfully gives'' and inserting in its place ''shall not give'', and deleting '', shall be fined not more than $500'';

(3) in subsection (d) by deleting in paragraph (2) ''who refuses or willfully neglects'' and inserting in its place ''shall not refuse or willfully neglect'', and deleting '', shall not be fined more than $100'';

AMENDMENT NO. 3179

(Purpose: To authorize the Secretary of Agriculture to use certain funds to carry out a tree assistance program and to clarify the eligibility of certain producers for assistance under the program)

On page 67, after line 23, add the following:

SEC. ___. TREE ASSISTANCE PROGRAM.

(a) IN GENERAL.—The Secretary of Agriculture may use funds for the assistance made available under Public Law 105–174, to carry out a tree assistance program to owners of trees that were lost or destroyed as a result of a disaster or emergency that was declared by the President or the Secretary of Agriculture during the period beginning May 1, 1998, and ending August 1, 1998, regardless of whether the damage resulted in loss or destruction after August 1, 1998.

(b) ADMINISTRATION.—Subject to subsection (c), the Secretary shall carry out the program, to the maximum extent practicable, in accordance with the terms and conditions of the tree assistance program established under part 783 of title 7, Code of Federal Regulations.

(c) ELIGIBILITY.—A person shall be presumed eligible for assistance under the program if the person demonstrates to the Secretary that trees owned by the person were lost or destroyed by May 31, 1999, as a direct result of fire blight infestation that was caused by a disaster or emergency described in subsection (a).

AMENDMENT NO. 3180

(Purpose: To require the Secretary of Agriculture to assist the Commission on 21st Century Production Agriculture to conduct a study to guide the development of future Federal agricultural policies)

On page 67, after line 23, add the following:

SEC. 7___. STUDY OF FUTURE FEDERAL AGRICULTURAL POLICIES.

(a) IN GENERAL.—On the request of the Commission on 21st Century Production Agriculture, the Secretary of Agriculture, acting through the Chief Economist of the Department of Agriculture, shall make assistance and information available to the Commission to enable the Commission to conduct a study to guide the development of future Federal agricultural policies.

(b) DUTIES.—In conducting the study, the Commission shall—

(1) examine a range of future Federal agricultural policies that may succeed the policies established under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.) for the 2003 and subsequent crops, and the impact of such policies on farm income, the structure of agriculture, trade competitiveness, conservation, the environment and other factors;

(2) assess the potential impact of any legislation enacted through the end of the 105th Congress on future Federal agricultural policies; and

(3) review economic agricultural studies that are relevant to future Federal agricultural policies.

(c) REPORT.—Not later than December 31, 1999, the Commission shall submit to the Committee on Agriculture of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry of the Senate, and the Committees on Appropriations of the House of Representatives and the Senate the results of the study conducted under this section.

AMENDMENT NO. 3181

(Purpose: To require country of origin labeling of perishable agricultural commodities imported into the United States and to establish penalties for violations of the labeling requirements)

On page 67, after line 23, add the following:

SEC. ___. INDICATION OF COUNTRY OF ORIGIN OF IMPORTED PERISHABLE AGRICULTURAL COMMODITIES.

(a) DEFINITIONS.—In this section:

(1) FOOD SERVICE ESTABLISHMENT.—The term ''food service establishment'' means a restaurant, cafeteria, lunch room, food stand, saloon, tavern, bar, lounge, or other similar facility, operated as an enterprise engaged in the business of selling foods to the public.

(2) PERISHABLE AGRICULTURAL COMMODITY; RETAILER.—The terms ''perishable agricultural commodity'' and ''retailer'' have the meanings given the terms in section 1(b) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499a(b)).

(b) NOTICE OF COUNTRY OF ORIGIN REQUIRED.—Except as provided in subsection (c), a retailer of a perishable agricultural commodity imported into the United States shall inform consumers, at the final point of sale of the perishable agricultural commodity to consumers, of the country of origin of the perishable agricultural commodity.

(c) EXEMPTION FOR FOOD SERVICE ESTABLISHMENTS.—Subsection (b) shall not apply to a perishable agricultural commodity imported into the United States to the extent that the perishable agricultural commodity is—

(1) prepared or served in a food service establishment; and

(2)(A) offered for sale or sold at the food service establishment in normal retail quantities; or

(B) served to consumers at the food service establishment.

(d) METHOD OF NOTIFICATION.—

(1) IN GENERAL.—The information required by subsection (b) may be provided to consumers by means of a label, stamp, mark, placard, or other clear and visible sign on the imported perishable agricultural commodity or on the package, display, holding unit, or bin containing the commodity at the final point of sale to consumers.

(2) LABELED COMMODITIES.—If the imported perishable agricultural commodity is already individually labeled regarding country of origin by the packer, importer, or another person, the retailer shall not be required to provide any additional information to comply with this section.

(e) VIOLATIONS.—If a retailer fails to indicate the country of origin of an imported perishable agricultural commodity as required by subsection (b), the Secretary of Agriculture may assess a civil penalty on the retailer in an amount not to exceed—

(1) $1,000 for the first day on which the violation occurs; and

(2) $250 for each day on which the same violation continues.

(f) DEPOSIT OF FUNDS.—Amounts collected under subsection (e) shall be deposited in the Treasury of the United States as miscellaneous receipts.

(g) APPLICATION OF SECTION.—This section shall apply with respect to a perishable agricultural commodity imported into the United States after the end of the 6-month period beginning on the date of the enactment of this Act.

Mr. GRAHAM. Mr. President, this amendment would require Country of Origin labeling of perishable agricultural commodities imported into the United States. I offer this amendment to ensure that Americans know the origin of every orange, banana, tomato, cucumber, and green pepper on display in the grocery store, and to improve the safety of food consumed by all Americans.

In March of 1996, shoppers throughout California and nineteen other states discovered that the produce they had brought home from the grocery store was accompanied by an uninvited and unwelcome guest—cyclospora, a harmful parasite that invades the small intestine and causes extreme diarrhea, vomiting, weight loss, and severe muscle aches.

Immediately, the federal government's Center for Disease Control (CDC) sprang into action. The agency traced the illness to contaminated Guatemalan raspberries and directed consumers to avoid buying fruit from the Central American nation until the outbreak could be investigated, contained, and eradicated.

Americans take this kind of urgent health directive seriously. But millions of shoppers found that their hands were tied against following the CDC's instructions. In 49 states, consumers discovered that grocery stores were not required to post where their fresh fruits and vegetables had been grown. The information required to prevent other Americans from getting sick simply wasn't available.

Florida was the exception. For nearly twenty years, Floridians shopping at their local Publix, Winn Dixie, Food Lion, and other grocery stores have been able to make educated choices about the food products they purchase for their families. In 1979, in my first year as Governor, I proudly signed legislation to make country-of-origin labels commonplace in produce sections all over Florida.

Country-of-origin labelling is not new to the American marketplace. For decades, ''Made In'' labels have been as visible as price tags on clothes, toys, television sets, watches, and many other products. It makes no sense that they are nowhere to be found in the produce section of grocery stores in the vast majority of states.

President Clinton has unveiled a number of food safety initiatives over

the past several months. Although his plans commendably call for strict safety measures in the growing and harvesting of domestic fruits and vegetables, and establish the U.S. Food and Drug Administration (FDA) as another line of defense against potentially contaminated imported produce, they do not empower individual shoppers with the knowledge they need to make educated choices in the produce section.

As the Guatemalan case illustrated, that is a dangerous omission. The current lack of identifying information on produce means that Americans who wish to heed government health warnings about foreign products or who have justifiable concerns about other nations' labor, environmental, and agricultural standards are powerless to choose other perishibles.

Contrary to many claims opposing this legislation, compliance with a country of origin law would be of minimal cost to our nation's retailers. Both Publix and Winn Dixie have estimated that compliance costs most individual grocery stores less than $10 each month. The total cost for more than 25,000 retail stores in Florida is less than $195,000 annually.

That's a small price to pay for consumers' peace of mind, and to preserve the concept of choice that is the foundation for our nation's free market system. Any first-year economics student knows that the laws of supply and demand do not work unless consumers have adequate information about goods and services for sale. Fruits and vegetables are no exception.

In addition, a study by the U.S. Department of Agriculture found that twenty-six of our key trading partners, including Guatemala, require country of origin labeling for fresh fruits and vegetables. By adopting this amendment, our law will become more consistent with the laws of our global trading partners, and would not constitute an unfair barrier to trade.

Giving consumers greater confidence in the produce they buy should be a central part of our nation's efforts to improve food safety. Congress can take a major step toward meeting that goal by enacting this amendment, and restoring American shoppers' ability to make an informed decision.

AMENDMENT NO. 3182

(Purpose: To express the sense of the Senate that unauthorized user fees submitted in the President's budget have resulted in shortfalls for specified programs)

FINDINGS.—

The President's budget submission includes unauthorized user fees; It is unlikely these fees will be authorized in the immediate future; The assumption of revenue from unauthorized user fees results in a shortfall of funds available for programs under the jurisdiction of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Subcommittee;

That among the programs for which additional funds can be justified are:

Human Nutrition Research;

The Food Safety Initiative activities of the USDA and the FDA;

the wetlands Reserve Program;

the Conservation Farm Option Program;

the Farmland Protection Program;

the Inspector General's Law Enforcement Initiative;

FDA pre-notification certification;

FDA clinical pharmacology;

FDA Office of Cosmetics and Color;

the Rural Electric loan programs;

the Pesticide Data Program;

the Rural Community Advancement Program;

civil rights activities; and

Fund Rural America.

Therefore, it is the Sense of the Senate that: In the event an additional allocation becomes available, the above mentioned programs should be considered for funding.

AMENDMENT NO. 3183

(Purpose: To require the Secretary of Agriculture to establish and maintain within the Department of Agriculture an Office of the Small Farms Advocate)

On page 67, after line 23, add the following:

SEC. —. OFFICE OF THE SMALL FARMS ADVOCATE.

(a) DEFINITION OF SMALL FARM.—In this section, the term ''small farm'' has the meaning given the term in section 506 of the Rural Development Act of 1972 (7 U.S.C. 2666).

(b) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall establish and maintain in the Department of Agriculture an Office of the Small Farms Advocate.

(c) FUNCTIONS.—The Office of the Small Farms Advocate shall—

(1) cooperate with, and monitor, agencies and offices of the Department to ensure that the Department is meeting the needs of small farms;

(2) provide input to agencies and offices of the Department on program and policy decisions to ensure that the interests of small farms are represented; and

(3) develop and implement a plan to coordinate the effective delivery of services of the Department to small farms.

(d) ADMINISTRATOR.—

(1) APPOINTMENT.—The Office of the Small Farms Advocate shall be headed by an Administrator, who shall be appointed by the President, with the advice and consent of the Senate. Nothing in this Act shall be construed to authorize a net increase in the number of political appointees within the Department of Agriculture.

(2) DUTIES.—The Administrator shall—

(A) act as an advocate for small farms in connection with policies and programs of the Department; and

(B) carry out the functions of the Office of the Small Farms Advocate under subsection (b).

(3) EXECUTIVE SCHEDULE.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

''Administrator, Office of the Small Farms Advocate, Department of Agriculture.''.

(e) RESOURCES.—Using funds that are otherwise available to the Department of Agriculture, the Secretary shall provide the Office of the Small Farms Advocate with such human and capital resources as are sufficient for the Office to carry out its functions in a timely and efficient manner.

(f) ANNUAL REPORT.—The Secretary shall annually submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate an annual report that describes actions taken by the Office of the Small Farms Advocate to further the interests of small farms.

Mr. FEINGOLD. Mr. President, I rise today to introduce an amendment aimed at preserving America's small farms. This amendment costs nothing and was inspired by a recommendation included in the January, 1998 publication of the National Commission on Small Farms.

Mr. President, there is no question that America's small farms are struggling. Their struggle is detailed in ''A Time to Act'', the report issued by the National Commission on Small Farms, which outlines the crisis small farmers will face as they enter the next century.

Mr. President, 94% of the farms in America are small farms, yet they receive only 41% of all farm receipts. Simply put 6% of our farms collect 59% of the receipts. Also, data shows that, on average, these farms actually earn a negative return on equity. Mr. President, many feel that one cause of the problem is that USDA does not emphasize the needs of small farms in its strategic plans, partly because Congress does not require that emphasis. References to small farms appear seldom in USDA policy and Congress is to blame. Lets use this opportunity to right a wrong and attempt to preserve small farms throughout the country.

Mr. President, the Feingold amendment will turn the USDA's attention to the plight of the small farmer. This amendment directs the Secretary of Agriculture to establish an Office of the Small Farms Advocate within six months of enactment of the underlying bill. This office will be headed by an Administrator who will be appointed by the President and who will report directly to the Secretary of Agriculture. This office will be created without going outside current budget or personnel resources. The Office of the Small Farms Advocate will ensure that USDA and its programs work to meet the needs of today's small farmers.

The Office of the Small Farms Advocate will accomplish this by: working with all USDA agencies to ensure that they consider the needs of small farmers; providing formal input on major programmatic and policy decisions by USDA agencies; developing a plan to enhance small farm program delivery at USDA; and being a constant advocate for small farms and small farm policies.

Let me assure my colleagues that it is not my intention to create another layer of bureaucracy—it is my intention to coordinate USDA programs to meet small farmer needs and make the bureaucracy more responsive.

Mr. President, this amendment will not increase USDA's authorized budget, but instead directs USDA to use its current financial and personnel resources. Finally, this amendment does not increase the number of political appointees within the Department of Agriculture.

Mr. President, day after day, season after season, we are losing small farms at an alarming rate. In the United States, we have 300,000 less farms than

we did in 1979. In 1980, there were 45,000 dairy farms in Wisconsin. In 1997, there are only 24,000 dairy farms. That is a loss of more than 3 dairy farms a day—every day for 18 years. And it does not begin to measure the human cost to families driven from the land. As small farms disappear, we are witnessing the emergence of larger agricultural operations. This trend toward fewer but larger dairy operations is mirrored in most states throughout the Nation.

For many of the rural communities of Wisconsin, small family-owned farms are the key component of the community. They provide economic and social stability. The reduction in the number of small farms has hurt their neighbors as well and deprived the merchants on Main Street of many lifelong customers. We need a system in which small farms can be viable and the work of the producer can be fairly rewarded.

Mr. President, many feel federal policy and federal investments focus almost solely on the needs of larger scale agricultural producers—neglecting the specific research needs of small producers. Small producers need more Federal research and extension activity devoted to the development of these alternatives. It is my hope that this new office at USDA will be committed to help develop and promote production and marketing systems that specifically address the needs of small farms. This bias has hamstrung small farmers, depriving them of the tools they need to adapt to changes in farming and the marketplace and accelerating the trend toward increased concentration.

Mr. President, this country's small producers should not be forced to become larger in order to remain competitive. Bigger is not necessarily better. Maintaining the economic viability of small operations has benefits beyond those gained by farmers and the communities in which they reside; they can also provide environmental benefits. For example, as operations expand, manure storage and management practices become more costly and more burdensome for the operator and raise additional regulatory concerns associated with runoff and water quality among State and Federal regulators. Federal policy that helps small operators to remain competitive and profitable without dramatic expansion will help minimize these concerns. And in fact, M. President, expansion is often counterproductive for small operations, requiring them to take on even greater debt. Unfortunately, federal agriculture policy has put many producers in a situation where they must choose to expand their operations or throw in the towel. Farmers should not be forced into that position. We must provide the tools necessary for farmers to survive and prosper regardless of the size of their operation.

We all congratulated the USDA when it convened the National Commission on Small Farms in July 1997. We applauded the appointment of farmers, ranchers, staff of nonprofit farm and farmworker advocacy organizations, Extension professionals, current and former public officials, and philanthropic foundation program staff. We all held up the final report as our signal to rural America that we were going to do something. M. President, we haven't done anything yet. The Commission important report and recommendation have fallen by the wayside. It would be a travesty if the U.S. Government spent taxpayer money on a worthwhile project such as this—then didn't act on those recommendations. This amendment is the first step in our commitment to not preserve a large sector of our agriculture community, and an important piece of America's heritage.

I urge my colleagues to support this no-cost, pro-farmer amendment and yield back the balance of my time.

AMENDMENT NO. 3184

(Purpose: To limit the penalty for an inadvertent violation of a contract under the Agricultural Market Transition Act)

On page 67, after line 23, add the following:

SEC. 7—. LIMIT ON PENALTY FOR INADVERTENT VIOLATION OF CONTRACT UNDER THE AGRICULTURAL MARKET TRANSITION ACT.

If an owner or producer, in good faith, inadvertently plants edible beans during the 1998 crop year on acreage covered by a contract under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.) the Secretary of Agriculture shall minimize penalties imposed for the planting to prevent economic injury to the owner or producer.

AMENDMENT NO. 3185

(Purpose: To amend the Energy Policy Act of 1992 to take into account newly developed renewable energy-based fuels and to equalize alternative fuel vehicle acquisition incentives to increase the flexibility of controlled fleet owners and operators, and for other purposes)

On page 67 after line 23 add the following new section:

SEC. .

(1) SHORT TITLE; TABLE OF CONTENTS

(a) SHORT TITLE.—This Act may be cited as the ''Biodiesel Energy Development Act of 1998''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.
Sec. 3. Amendment to the Energy Policy and Conservation Act.
Sec. 4. Minimum Federal fleet requirement.
Sec. 5. State and local incentives programs.
Sec. 6. Alternative fuel bus program.
Sec. 7. Alternative fuel use in nonroad vehicles, engines, and marine vessels.
Sec. 8. Mandate for alternative fuel providers.
Sec. 9. Replacement fuel supply and demand program.
Sec. 10. Modification of goals; additional rulemaking authority.
Sec. 11. Fleet requirement program.
Sec. 12. Credits.
Sec. 13. Secretary's recommendation to Congress.

(2) DEFINITIONS.

Section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211) is amended—

(1) in paragraph (2), by striking ''derived from biological materials'' and inserting ''derived from domestically produced renewable biological materials (including biodiesel) at mixtures not less than 20 percent by volume'';

(2) in paragraph (8), by striking subparagraph (B) and inserting the following:

''(B) a motor vehicle (other then an automobile) or marine vessel that is capable of operating on alternative fuel, gasoline, or diesel fuel, or an approved blend of alternative fuel and petroleum-based fuel.'';

(3) by redesignating paragraphs (11) through (14) as paragraphs (12), (14), (15), and (16), respectively;

(4) by inserting after paragraph (10) the following:

''(11) the term 'heavy duty motor vehicle' means a motor vehicle or marine vessel that is greater than 8,500 pounds gross vehicle weight rating;'';

(5) by inserting after paragraph (12) (as redesignated by paragraph (3)) the following:

''(13) the term 'marine vessel' means a motorized watercraft or other artificial contrivance used as a means of transportation primarily on the navigable waters of the United States;'';

(6) in paragraph (15) (as redesignated by paragraph (3)), by striking ''biological materials'' and inserting ''domestically produced renewable biological materials (including biodiesel)''.

(3) AMENDMENTS TO THE ENERGY POLICY AND CONSERVATION ACT.

Section 400AA of the Energy Policy and Conservation Act (42 U.S.C. 6374) is amended—

(1) in the second sentence of subsection (a)(3)(B), by striking ''vehicles converted to use alternative fuels may be acquired if, after conversion,'' and inserting ''existing fleet vehicles may be converted to use alternative fuels at the time of a major vehicle overhaul or rebuild, or vehicles that have been converted to use alternative fuels may be acquired, if''; and

(2) in subsection (g)—

(A) in paragraph (2), by striking ''derived from biological materials'' and inserting ''derived from domestically produced renewable biological materials (including biodiesel) at mixtures not less than 20 percent by volume'';

(B) in paragraph (5), by striking subparagraph (B) and inserting the following:

''(B) a motor vehicle (other than an automobile) or marine vessel that is capable of operating on alternative fuel, gasoline, or diesel fuel, or an approved blend of alternative fuel and petroleum-based fuel; and'';

and

(C) in paragraph (6), by inserting ''or marine vessel'' after ''a vehicle''.

(4) MINIMUM FEDERAL FLEET REQUIREMENT.

Section 303 of the Energy Policy Act of 1992 (42 U.S.C. 13212) is amended—

(1) by redesignating subsections (c) through (f) as subsections (d) through (g), respectively; and

(2) by inserting after subsection (b) the following:

''(c) HEAVY DUTY AND DUEL-FUELED VEHICLE COMPLIANCE CREDITS.—

''(1) IN GENERAL.—For purposes of meeting the requirements of this section, the Secretary, in consultation with the Administrator of General Services, if appropriate, shall permit a Federal fleet to acquire 1 heavy duty alternative fueled vehicle in place of 2 light duty alternative fueled vehicles.

''(2) ADDITIONAL CREDITS.—For purposes of this section, the Secretary, in consultation with the Administrator of General Services, if appropriate, shall permit a Federal fleet to take an additional credit for the purchase and documented use of alternative fuel used in a dual-fueled vehicle, comparable conventionally-fueled motor vehicle, or marine vessel.

''(3) ACCOUNTING.—

''(A) IN GENERAL.—In allowing a credit for the purchase of a dual-fueled vehicle or alternative fuel, the Secretary may request a Federal agency to provide an accounting of the purchase.

''(B) GUIDELINES.—The Secretary shall include any request made under subparagraph (A) in the guidelines required under section 308.

''(4) FUEL AND VEHICLE NEUTRALITY.—The Secretary shall carry out this subsection in a manner that is, to the maximum extent practicable, neutral with respect to the type of fuel and vehicle used.''.

(5) STATE AND LOCAL INCENTIVES PROGRAMS.

(a) ESTABLISHMENT OF PROGRAM.—Section 409(a) of the Energy Policy Act of 1992 (42 U.S.C. 13235(a)) is amended—

(1) in paragraph (2)(A), by striking ''alternative fueled vehicles'' and inserting ''light and heavy duty alternative fueled vehicles and increasing the use of alternative fuels''; and

(2) in paragraph (3)—

(A) in subparagraph (B), by inserting after ''introduction of'' the following: ''converted or acquired light and heavy duty'';

(B) in subparagraph (E), by inserting after ''of sales of'' the following: '', incentives toward use of, and reporting requirements relating to''; and

(C) in subparagraph (G)—

(i) by redesignating clauses (i) through (iii) as clauses (ii) through (iv), respectively; and

(ii) by inserting after ''cost of—'' the following:

''(I) alternative fuels;''.

(b) FEDERAL ASSISTANCE TO STATES.—Section 409(b) of the Energy Policy Act of 1992 (42 U.S.C. 13235(b)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by striking ''and'' at the end;

(B) in subparagraph (C), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(D) grants of Federal financial assistance for the incremental purchase cost of alternative fuels.'';

(2) in paragraph (2)(B), by inserting after ''be introduced'' the following: ''and the volume of alternative fuel likely to be consumed''; and

(3) in paragraph (3)—

(A) by inserting ''alternative fuels and'' after ''in procuring''; and

(B) by inserting ''fuels and'' after ''of such''.

(C) GENERAL PROVISIONS.—Section 409(c)(2)(A) of the Energy Policy Act of 1992 (42 U.S.C. 13235(c)(2)(A)) is amended by inserting after ''alternative fueled vehicles in use'' the following: ''and volume of alternative fuel consumed''.

(6) ALTERNATIVE FUEL BUS PROGRAM.

Section 410(c) of the Energy Policy Act of 1992 (42 U.S.C. 13236(c)) is amended in the second sentence by striking ''and the conversion of school buses to dedicated vehicles'' and inserting ''the incremental cost of alternative fuels used in flexible fueled school buses, and the conversion of school buses to alternative fueled vehicles''.

(7) ALTERNATIVE FUEL USE IN NONROAD VEHICLES, ENGINES, AND MARINE VESSELS.

Section 412 of the Energy Policy Act of 1992 (42 U.S.C. 13238) is amended—

(1) in the section heading, by striking ''and engines'' and inserting '', engines, and marine vessels'';

(2) by striking ''vehicles and engines'' each place it appears in subsections (a) and (b) and inserting ''vehicles, engines, and marine vessels'';

(3) in subsection (a)—

(A) in the subsection heading, by striking ''NONROAD VEHICLES AND ENGINES'' and inserting ''IN GENERAL'';

(B) in paragraph (1)—

(i) in the first sentence, by striking ''a study'' and inserting ''studies''; and

(ii) in the second sentence—

(I) by striking ''study'' and inserting ''studies''; and

(II) by striking ''2 years'' and inserting ''2, 6, and 10 years'';

(C) in paragraph (2)—

(i) by striking ''study'' each place it appears and inserting ''studies''; and

(ii) in the second sentence, by inserting ''or marine vessels'' after ''such vehicles''; and

(D) in paragraph (3)—

(i) by striking ''report'' and inserting ''reports''; and

(ii) by striking ''may'' and inserting ''shall''; and

(4) in subsection (b)—

(A) in the subsection heading, by striking ''AND ENGINES'' and inserting '', ENGINES, AND MARINE VESSELS''; and

(B) by striking ''rail transportation, vehicles used at airports, vehicles or engines used for marine purposes, and other vehicles or engines'' and inserting ''rail and waterway transportation, vehicles used at airports and seaports, vehicles or engines used for marine purposes, marine vessels, and other vehicles, engines, or marine vessels''.

(8) MANDATE FOR ALTERNATIVE FUEL PROVIDERS.

Section 501 of the Energy Policy Act of 1992 (42 U.S.C. 13251) is amended—

(1) in subsection (a)(1), by inserting ''or heavy'' after ''new light''; and

(2) in subsection (b)—

(A) in paragraph (1), by striking ''and'' at the end;

(B) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(3) allow the conversion of an existing fleet vehicle into a dual-fueled alternative fueled vehicle at the time of a major overhaul or rebuild of the vehicle, if the original equipment manufacturer's warranty continues to apply to the vehicle, pursuant to an agreement between the original equipment manufacturer and the person performing the conversion.''.

(9) REPLACEMENT FUEL SUPPLY AND DEMAND PROGRAM.

Section 502 of the Energy Policy Act of 1992 (42 U.S.C. 13252) is amended—

(1) in the first sentence of subsection (a), by inserting ''and heavy'' after ''in light''; and

(2) in the first sentence of subsection (b), by inserting after ''October 1, 1993,'' the following: ''and every 5 years thereafter through October 1, 2008,''.

(10) MODIFICATION OF GOALS; ADDITIONAL RULEMAKING AUTHORITY.

Section 504 of the Energy Policy Act of 1992 (42 U.S.C. 13254) is amended—

(1) in the first sentence of subsection (a), by striking ''and periodically thereafter'' and inserting ''consistent with the reporting requirements of section 502(b)''; and

(2) in subsection (c), by inserting after the first sentence the following: ''Any additional regulation issued by the Secretary shall be, to the maximum extent practicable, neutral with respect to the type of fuel and vehicle used.''.

(11) FLEET REQUIREMENT PROGRAM.

(a) FLEET PROGRAM PURCHASE GOALS.—Section 507(a)(1) of the Energy Policy Act of 1992 (42 U.S.C. 13257(a)(1)) is amended by inserting ''acquired as, or converted into,'' after ''shall be''.

(b) FLEET REQUIREMENT PROGRAM.—Section 507(g) of the Energy Policy Act of 1992 (42 U.S.C. 13257(g)) is amended—

(1) in paragraph (1), by inserting ''acquired as, or converted into,'' after ''shall be'';

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following:

''(4) SUBSTITUTIONS.—The Secretary shall, by rule, permit fleets covered under this section to substitute the acquisition or conversion of 1 heavy duty alternative fueled vehicle for 2 light duty vehicle acquisitions to meet the requirements of this subsection.''.

(c) CONVERSIONS.—Section 507(j) of the Energy Policy Act of 1992 (42 U.S.C. 13257(j)) is amended—

(1) by striking ''Nothing in'' and inserting the following:

''(1) IN GENERAL.—Subject to paragraph (2), nothing in''; and

(2) by adding at the end the following:

''(2) CONVERSION INTO ALTERNATIVE FUELED VEHICLES.—

''(A) IN GENERAL.—A fleet owner shall be permitted to convert an existing fleet vehicle into an alternative fueled vehicle, and purchase the alternative fuel for the converted vehicle, for the purpose of compliance with this title or an amendment made by this title, if the original equipment manufacturer's warranty continues to apply to the vehicle, pursuant to an agreement between the original equipment manufacturer and the person performing the conversion.

''(B) CREDITS.—A fleet owner shall be allowed a credit for the conversion of an existing fleet vehicle and the purchase of alternative fuel for the vehicle.''.

(d) MANDATORY STATE FLEET PROGRAMS.—Section 507(o) of the Energy Policy Act of 1992 (42 U.S.C. 13257(o)) is amended—

(1) in paragraph (1)—

(A) by inserting ''or heavy'' after ''new light''; and

(B) by inserting ''or converted'' after ''acquired''; and

(2) in the first sentence of paragraph (2)(A)—

(A) by striking ''this Act'' and inserting ''the Biodiesel Energy Development Act of 1997''; and

(B) by inserting after ''of light'' the following: ''or heavy duty alternative fueled''.

(12) CREDITS.

(a) IN GENERAL.—Section 508(a) of the Energy Policy Act of 1992 (42 U.S.C. 13258(a)) is amended—

(1) by striking ''The Secretary'' and inserting the following:

''(1) ADDITIONAL ALTERNATIVE FUELED VEHICLES.—The Secretary''; and

(2) by adding at the end the following:

''(2) ALTERNATIVE FUEL.—The Secretary shall allocate a credit to a fleet or covered person that acquires a volume of alternative fuel equal to the estimated need for 1 year for any dual-fueled vehicle acquired or converted by the fleet or covered person as required under this title.''.

(b) ALLOCATION.—Section 508(b) of the Energy Policy Act of 1992 (42 U.S.C. 13258(b)) is amended—

(1) by striking ''In allocating credits under subsection (a),'' and inserting the following:

''(1) ADDITIONAL ALTERNATIVE FUELED VEHICLES.—In allocating credits under subsection (a)(1),''; and

(2) by adding at the end the following:

''(2) DUAL-FUELED VEHICLES; ALTERNATIVE FUEL.—In allocating credits under subsection (a)(2), the Secretary shall allocate 2 credits to a fleet or covered person for acquiring or converting a dual-fueled vehicle and acquiring a volume of alternative fuel equal to the estimated need for 1 year for any dual-fueled vehicle if the dual-fueled vehicle acquired is in excess of the number that the fleet or covered person is required to acquire or is acquired before the date that the fleet or covered person is required to acquire the number under this title.''.

(13) SECRETARY'S RECOMMENDATION TO CONGRESS.

Section 509(a) of the Energy Policy Act of 1992 (42 U.S.C. 13259(a)) is amended—

(1) in paragraph (1), by inserting before the semicolon at the end the following: ''and exempting replacement fuels from taxes levied on non-replacement fuels''; and

(2) in paragraph (2)—

(A) by inserting ''and converters'' after ''suppliers''; and

(B) by inserting before the semicolon the following: '', including the conversion and warranty of motor vehicles into alternative fueled vehicles''.

Mr. JOHNSON. Mr. President, renewable alternative fuels benefit energy security, the environment, and our overall economy. The amendment being offered today by Senator CRAIG and myself is critically important to soybean farmers across the country, and will do a great deal to give the ag economy a shot in the arm in states which produce soybeans.

Since the Farm Bill took affect two years ago, soybean prices have dropped 15 percent, costing soybean producers in South Dakota about a hundred million dollars in lost revenue. The Craig/Johnson amendment could help offset these losses by boosting soybean prices an average of 11 cents a bushel and generating about $10 million in additional revenue for South Dakota soybean farmers and more than $300 million for soybean farmers nationwide without costing taxpayers one dime.

This amendment makes changes to the Energy Policy Act of 1992. As most know, EPACT was enacted to stimulate the research and development of technologies which can potentially shift the focus of national energy demand away from imported oil and toward renewable or domestically produced energy sources. One component of energy consumption on which EPACT focuses is significantly reducing the amount of imported oil used by the transportation sector. The stated goal in EPACT is to replace 10 percent of petroleum by the year 2000 and 30 percent by the year 2010 with alternative fuels.

This amendment is necessary because unfortunately, EPACT's current mandates and incentive structure essentially exclude some alternative fuels, such as biodiesel, from being an option for controlled fleet owners and operators. Further, the amendment will aid in the achievement of EPACT's goals of strengthening America's energy security through the substitution of domestically produced alternative fuels for imported petroleum products in the transportation sector. The latter point is important because this country is making extremely poor progress toward meeting the petroleum displacement goals of EPACT, and even federal fleets are not in compliance with the requirements of this statute.

However, it is my understanding that Senators BUMPERS and ROCKEFELLER have some concerns about the impact the amendment will have on other alternative fuels currently eligible under EPACT. Is that correct?

Mr. BUMPERS. Yes, Senator JOHNSON, I do have some concerns about the amendment. However, I am prepared to accept the amendment today if I can secure a commitment from the Senator from South Dakota to sit down and address my concerns between passage of the Senate's legislation today and completion of action by the conference committee. Can I have that commitment from you, Senator JOHNSON?

Mr. JOHNSON. Certainly, and I very much appreciate your willingness to work with me on this issue. Senator ROCKEFELLER, would you be willing to accept the amendment today knowing that we will be sitting down between now and the completion of the conference committee to work out a compromise to address your concerns?

Mr. ROCKEFELLER. While you are correct that I have concerns about specific provisions in the amendment, I also have concerns about the process by which we have taken up this issue. One of my top legislative priorities since coming to Congress has been the promotion of alternative fuels, and I am concerned that today's action is only a band-aid on a program which needs major surgery. However, I am prepared to accept the amendment today with the commitment to work together in the coming weeks to find a compromise to address my concerns.

Mr. JOHNSON. Thank you, Senator ROCKEFELLER. I look forward to working with you on this specific issue in the coming weeks, and on the larger issue of more effectively promoting the use of all alternative fuels in the coming months and in future congresses. I also want to thank Senator CRAIG and Chairman COCHRAN for their leadership on this amendment, and look forward to working with them during the coming weeks to find a compromise on this important issue prior to completion of action by the conference committee.

AMENDMENT NO. 3186

[The text of the amendment will appear in a future issue of the RECORD.]

AMENDMENT NO. 3187

(Purpose: To require the Secretary of Agriculture to submit a plan to Congress for the lifting of the ban on interstate distribution of state inspected meat)

The Secretary of Agriculture shall present to Congress a report on whether to recommend by March 1, 1999, lifting the ban on the interstate-distribution of state inspected meat.

Mr. COCHRAN. Mr. President, I ask unanimous consent that Senator ROBERTS be added as a cosponsor to the biodiesel amendment, amendment No. 3185.

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

Mr. LEAHY. Mr. President, I and my colleague from Vermont Senator JEFFORDS, would like to engage Senator COCHRAN, Senator BUMPERS, Senator GRAHAM, and Senator MACK in a colloquy regarding Senator GRAHAM's disaster assistance amendment. I can certainly sympathize with what Senator GRAHAM and Senator MACK are trying to do tonight with this amendment, and I support their amendment. The fires that have struck Florida in recent weeks have shocked people from across the country, and undoubtedly the damage to agriculture in the state has been severe. However, I would like to bring attention to the fact that a number of other states have also suffered significant damage from natural disasters in recent months. My own state of Vermont suffered significant flooding early this month. Eight of the state's fourteen counties were declared disaster areas. Other parts of the country are also suffering agricultural damage including areas of the west and southeast which are suffering serious drought conditions. Damage from these disasters is still being determined, however by the time we go to conference with the House on the Agriculture Appropriations bill, we will have a better idea about the extent of those damages. I hope that at that point we can revisit this disaster assistance and adjust the funding levels to reflect the full extent of agricultural damage from natural disasters being suffered by farmers throughout the country.

Mr. JEFFORDS. I would like to join Senator LEAHY in expressing my hope that we can revisit the issue of disaster assistance funding in conference. Senator LEAHY and I toured the damage in Vermont following the flooding there earlier this month, and the damage for farmers in affected areas was indeed severe. Those farmers are going to need assistance and I hope that we will be able to provide it in this bill.

Mr. COCHRAN. I agree with the Senators from Vermont that there are areas of the country suffering agricultural damage as a result of natural disasters and the needs of these areas should be addressed. The Administration should review the damage estimates from affected areas and request any emergency funding required to address those additional needs.

Mr. BUMPERS. I am in full agreement with Senator COCHRAN. While the need of farmers in Florida is clear and pressing, other farmers are also suffering as a result of the many disasters which have struck the country this year. The final conference agreement on this provision should reflect the full extent of damage to farmers in all affected regions of the country.

Mr. GRAHAM. I appreciate the support of Senator COCHRAN and Senator BUMPERS for our amendment and agree that it would be appropriate to address any additional needs of farmers from other disaster-stricken regions in conference.

Mr. MACK. I would like to join my colleagues in agreement that appropriate action to meet the needs of farmers in disaster-stricken areas throughout the nation should be taken in conference.

WILDLIFE SERVICES DIVISION OF APHIS AERIAL SAFETY STUDY

Mr. BURNS. Senator COCHRAN, I would like to discuss recent problems

that have been facing the Wildlife Services aerial program.

Mr. COCHRAN. Mr. President, I understand that the Wildlife Services Division of APHIS has recently completed a full, independent review of their aerial program.

Mr. BURNS. That's absolutely correct. As you know, Wildlife Services provides a broad range of services across the country and the aerial operations program is a key component of these services. In fact, distribution of rabies vaccine baits by Wildlife Services occurred earlier this year in Texas, Ohio, New Hampshire and other states. These activities help protect pets, children and others from the spread of rabies.

Mr. COCHRAN. I understand that the aerial program plays a large role in wolf recovery efforts in the Rocky Mountain West.

Mr. BURNS. That's right. The aerial program helps researchers track radio-collared wolves so we learn about wolf movements, habitat needs and feeding patterns. Without the aerial program it would be much more difficult to tranquilize and relocate wolves preying on domestic livestock. And, in the event of a wolf persists on killing livestock, it enables the program to efficiently remove the specific problem animal.

Mr. COCHRAN. But there have been problems?

Mr. BURNS. Yes. Despite a historically solid safety record, a series of aircraft accidents in the past two years including four fatalities of pilots, have prompted Assistant Secretary Mike Dunn to call for a full outside review.

Mr. COCHRAN. What were the conclusions of this review?

Mr. BURNS. The review found that not enough resources are being devoted to maintaining the safety of the program. Because of increasing demand for their aerial services, the program directs most of their resources into program delivery. This, coupled with ongoing budget constraints have limited the ability of the program to keep pace with developing technology and training in aircraft operations.

It is my understanding that the House has provided funds to address this situation. I hope the Senate conferees on this bill will review the findings of this study in the conference to assess whether additional funding is justified.

Mr. COCHRAN. I appreciate your bringing this study to our attention and we will look into this situation prior to conference.

Mr. CRAIG. Will the Senator from South Dakota yield for purposes of a colloquy?

Mr. JOHNSON. I am happy to enter into a colloquy with the Senator from Idaho.

Mr. CRAIG. The Senator and I have been working together on the Meat Labeling Act of 1998 for some time. Might I ask, what is the Senator's understanding of the Act's impact on meat prepared and served by a restaurant?

Mr. JOHNSON. It is my understanding, as the sponsor of the legislation, that it would have no impact what-soever on meat prepared and served by a restaurant. It is not our intent to require labeling of meat prepared and served by a restaurant.

Mr. CRAIG. That is also my understanding and intent. I thank the Senator for his clarification.

Mr. BAUCUS. Mr. President, I rise to discuss my amendment to the Agriculture Appropriations Bill, number 3150. This amendment would provide increased funding for research activities to improve counter-narcotic efforts.

I realize that the Subcommittee faced a very difficult challenge with the level of the funding allocation this year. While I am disappointed that it has been impossible to fund this project at this time, I wish to call the attention of the members of the Subcommittee to this important proposal. I believe it makes sense for the future of the agriculture industry.

This project would increase efforts to use biotechnology in the control of narcotic plants. This research would also enhance traditional agriculture production practices, supplying an important tool in weed control. Biotechnology research promises an economical solution to the spread of noxious weeds and other pests that threaten both public and private land across the nation.

I believe this type of research holds great potential for success in the war on drugs. Related efforts are underway in private industry, but there is great need to increase our efforts. This project would be an important step in that direction.

Finally, I would like to thank the Subcommittee Leadership, Senator BUMPERS and Chairman COCHRAN for their efforts to find funding for this program. And I hope it will be possible for the Subcommittee to give this project strong consideration in the future.

Mr. BUMPERS. I thank Senator BAUCUS for agreeing to look at funding this project in the future. I look forward to working with him on that effort.

Mr. BAUCUS. Thank you Senator BUMPERS, and thanks to the Chairman, as well for his assistance.

Mr. HARKIN. Would the distinguished Senator from Mississippi yield for the purpose of engaging in a colloquy with me on an issue of some concern to food packagers and to the general public?

Mr. COCHRAN. I am pleased to yield to the Senator from Iowa for the purpose of a colloquy.

Mr. HARKIN. As my colleague, the distinguished Chairman of the Subcommittee may know, I have been advised that the Food and Drug Administration Modernization Act of 1997 (FDAMA) authorized a new streamlined pre-market notification system for food packaging materials. The current regulatory process involves significant delays, resulting in lost sales and decisions not to bring new products to market that would improve food safety and protect the public health.

The new notification system will substantially reduce the length of the FDA review process and allow the introduction of advanced packaging materials. The Agency will still, however, receive all of the information needed to establish the safety of packaging materials and will continue to be able to keep unsafe materials off the market.

I also have been advised that FDAMA requires that certain funding criteria be met for the program to take effect as scheduled on April 1, 1999.

The Act calls for funding of the pre-market notification program at a level of $1.5 million in FY 1999. I note that the counterpart legislation passed by the House Appropriations Committee currently provides for the sum of $500,000. It is my hope that the distinguished Chairman of the Subcommittee will further address this issue in conference in order for the FDA to implement this important reform as intended by Congress.

Mr. COCHRAN. I agree with my colleague that the implementation of this program would expedite the introduction of improved food packaging materials and will give every consideration to this issue in the Conference Committee.

Mr. COCHRAN. Mr. President, I think we can announce that additional amendments have now been cleared on both sides of the aisle. There are 4 amendments. Three of them are Coverdell-Cleland amendments, the Senators from Georgia. One involves a prohibition on loan guarantees. Another involves a definition of ''farmland.'' A third involves disaster loan collateral requirements. A fourth Amendment is for Senator HARKIN, and it involves the WIC amendment, and it includes a colloquy.

If my distinguished friend from Arkansas can verify that these have been cleared on his side of the aisle, we are prepared to proceed to ask that they be considered en bloc and agreed to en bloc.

Mr. BUMPERS. May I ask the floor manager, what was the last amendment?

Mr. COCHRAN. The Harkin amendment on the WIC program, together with a colloquy.

Mr. BUMPERS. That has been cleared on this side.

AMENDMENTS NO. 3188 THROUGH 3191, EN BLOC

Mr. COCHRAN. Mr. President, I send four amendments to the desk, en bloc.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN] proposes amendments numbered 3188 through 3191, en bloc.

The amendments (Nos. 3188 through 3191), en bloc, are as follows:

AMENDMENT NO. 3188

(Purpose: To modify the prohibition on loan guarantees to borrowers that have received debt forgiveness)

On page 67, after line 23, add the following:

SEC. ___. PROHIBITION ON LOAN GUARANTEES TO BORROWERS THAT HAVE RECEIVED DEBT FORGIVENESS.

Section 373 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008h) is amended by striking subsection (b) and inserting the following:

''(b) PROHIBITION OF LOANS FOR BORROWERS THAT HAVE RECEIVED DEBT FORGIVENESS.—

''(1) PROHIBITIONS.—Except as provided in paragraph (2)—

''(A) the Secretary may not make a loan under this title to a borrower that has received debt forgiveness on a loan made or guaranteed under this title; and

''(B) the Secretary may not guarantee a loan under this title to a borrower that has received—

''(i) debt forgiveness after April 4, 1996, on a loan made or guaranteed under this title; or

''(ii) received debt forgiveness on no more than 3 occasions on or before April 4, 1996.

''(2) EXCEPTIONS.—

''(A) IN GENERAL.—The Secretary may make a direct or guaranteed farm operating loan for paying annual farm or ranch operating expenses of a borrower that was restructured with a write-down under section 353.

''(B) EMERGENCY LOANS.—The Secretary may make an emergency loan under section 321 to a borrower that—

''(i) on or before April 4, 1996, received not more than 1 debt forgiveness on a loan made or guaranteed under this title; and

''(ii) after April 4, 1996, has not received debt forgiveness on a loan made or guaranteed under this title.''.

AMENDMENT NO. 3189

(Purpose: To modify the factors that are used to determine whether applicants are eligible for farm credit loans)

On page 67, after line 23, add the following:

SEC. ___. DEFINITION OF FAMILY FARM.

(a) REAL ESTATE LOANS.—Section 302 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1922) is amended by adding at the end the following:

''(c) DETERMINATION OF QUALIFICATION FOR LOAN.—

''(1) PRIMARY FACTOR.—The primary factor to be considered in determining whether an applicant for a loan under this subtitle is engaged primarily and directly in farming or ranching shall be whether the applicant is participating in routine, ongoing farm activities and in overall decisionmaking with regard to the farm or ranch.

''(2) NO BASIS FOR DENIAL OF LOAN.—The Secretary may not deny a loan under this subtitle solely because 2 or more individuals are employed full-time in the farming operation for which the loan is sought.''.

(b) OPERATING LOANS.—Section 311 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1941) is amended by adding at the end the following:

''(d) DETERMINATION OF QUALIFICATION FOR LOAN.—

''(1) PRIMARY FACTOR.—The primary factor to be considered in determining whether an applicant for a loan under this subtitle is engaged primarily and directly in farming or ranching shall be whether the applicant is participating in routine, ongoing farm activities and in overall decisionmaking with regard to the farm or ranch.

''(2) NO BASIS FOR DENIAL OF LOAN.—The Secretary may not deny a loan under this subtitle solely because 2 or more individuals are employed full-time in the farming operation for which the loan is sought.''.

(c) EMERGENCY LOANS.—Section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961) is amended by adding at the end the following:

''(e) DETERMINATION OF QUALIFICATION FOR LOAN.—

''(1) PRIMARY FACTOR.—The primary factor to be considered in determining whether an applicant for a loan under this subtitle is engaged primarily and directly in farming or ranching shall be whether the applicant is participating in routine, ongoing farm activities and in overall decisionmaking with regard to the farm or ranch.

''(2) NO BASIS FOR DENIAL OF LOAN.—The Secretary may not deny a loan under this subtitle solely because 2 or more individuals are employed full-time in the farming operation for which the loan is sought.''.

(d) EFFECTIVE DATE.—This amendment shall be considered to have been in effect as of January 1, 1977.

AMENDMENT NO. 3190

(Purpose: To prohibit the Secretary of Agriculture from denying an emergency loan to a borrower by reason of the fact that the borrower lacks a particular amount of collateral for the loan if it is reasonably certain that the borrower will be able to repay the loan)

On page 67, after line 23, add the following:

SEC. ___. APPLICABILITY OF DISASTER LOAN COLLATERAL REQUIREMENTS UNDER THE SMALL BUSINESS ACT.

Section 324(d) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1964(d)) is amended—

(1) by striking ''(d) All loans'' and inserting the following:

''(d) REPAYMENT.—

''(1) IN GENERAL.— All loans''; and

(2) by adding at the end the following:

''(2) NO BASIS FOR DENIAL OF LOAN.—

''(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall not deny a loan under this subtitle to a borrower by reason of the fact that the borrower lacks a particular amount of collateral for the loan if the Secretary is reasonably certain that the borrower will be able to repay the loan.

''(B) REFUSAL TO PLEDGE AVAILABLE COLLATERAL.—The Secretary may deny or cancel a loan under this subtitle if a borrower refuses to pledge available collateral on request by the Secretary.''.

AMENDMENT NO. 3191

(Purpose: To include the bonus value of commodities in meeting a minimum commodity assistance requirement and to increase the amount appropriated for the WIC program)

On page 46, line 24, before the period, insert the following: '': *Provided further,* That none of the funds under this heading shall be available unless the value of bonus commodities provided under section 32 of the Act of August 24, 1935 (49 Stat. 774, chapter 641; 7 U.S.C. 612c), and section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431) is included in meeting the minimum commodity assistance requirement of section 6(g) of the National School Lunch Act (42 U.S.C. 1755(g))''.

On page 47, line 6, strike ''$3,924,000,000'' and insert ''$3,948,000,000''.

Mr. COCHRAN. We are prepared to accept the amendment offered by the Senator from Iowa. We have made a strong effort to provide adequate funding in this bill in order to maintain WIC participation within the budgetary constraints we have faced.

Mr. HARKIN. I certainly appreciate the efforts of the distinguished Chairman to fund WIC adequately within the limitations of the bill. However, analysis supporting the Administration's budget request indicates that the amount provided will not be sufficient to maintain WIC participation at the level it is expected to reach at the end of this fiscal year. Because of the success of WIC. I believe it is important to do whatever we can to ensure that WIC participation does not fall for lack of funding. My amendment provides a portion—but much less than all—of the additional appropriation the Administration believes is necessary to avoid a reduction in WIC participation during fiscal 1999.

Mr. COCHRAN. I certainly want to provide adequate funding to maintain WIC participation. We felt that we were providing sufficient funding in the bill to accomplish that. I would also note that I am concerned about the effect of the offset in the Senator's amendment on the level of commodities that may be purchased and provided to schools for the National School Lunch Program.

Mr. HARKIN. I acknowledge the doubts the Chairman has about the accuracy of the WIC budget request. Also, as the Chairman knows, I share his strong support for the School Lunch Program and for supplying commodities to it. I do have a letter from Secretary Glickman stating my amendment would not have an adverse effect on the School Lunch Program. I would be pleased to work with the Chairman and Senator BUMPERS to obtain a more thorough understanding of the needed level of WIC funding and of the effects of the offset prior to conference on the bill.

Mr. COCHRAN. I appreciate the willingness of the Senator to work with us on these questions.

Mr. HARKIN. I thank the Chairman very much for his cooperation on this amendment and look forward to working with him further on the matter.

Mr. COCHRAN. Mr. President, I ask unanimous consent that those amendments be agreed to, en bloc, and that the motion to table the motions to reconsider be laid upon the table.

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

The amendments (Nos. 3188 through 3191), en bloc, were agreed to.

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

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

AMENDMENT NO. 3176

Mr. DODD. Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER. Senator DODD's amendment No. 3176 is the pending business.

AMENDMENT NO. 3192 TO AMENDMENT NO. 3176

(Purpose: To amend the Federal Food, Drug, and Cosmetic Act to require the Secretary to ensure timely notification of certain recalls)

Mr. DODD. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD] proposes an amendment numbered 3192 to Amendment No. 3176.

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

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

The amendment is as follows:

In the amendment strike all after the first word and insert the following:

. NOTIFICATION OF RECALLS OF DRUGS AND DEVICES.

(a) DRUGS.—Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) is amended by adding at the end the following:

''(o)(1) If the Secretary withdraws an application for a drug under paragraph (1) or (2) of the first sentence of subsection (e) and a class I recall for the drug results, the Secretary shall take such action as the Secretary may determine to be appropriate to ensure timely notification of the recall to individuals that received the drug, including using the assistance of health professionals that prescribed or dispensed the drug to such individuals.

''(2) In this subsection:

''(A) The term 'Class I' refers to the corresponding designation given recalls in subpart A of part 7 of title 21, Code of Federal Regulations, or a successor regulation.

''(B) The term 'recall' means a recall, as defined in subpart A of part 7 of title 21, Code of Federal Regulations, or a successor regulation, of a drug.''.

(b) DEVICES.—Section 518(e) of such Act (21 U.S.C. 360h(e)) is amended—

(1) in the last sentence of paragraph (2), by inserting ''or if the recall is a class I recall,'' after ''cannot be identified''; and

(2) by adding at the end the following:

''(4) In this subsection, the term 'Class I' refers to the corresponding designation given recalls in subpart A of part 7 of title 21, Code of Federal Regulations, or a successor regulation.''.

(c) CONFORMING AMENDMENT.—Section 705(b) of such Act (21 U.S.C. 375(b)) is amended—

(1) by striking ''or gross'' and inserting ''gross''; and

(2) by striking the period and inserting '', or a class I recall of a drug or device as described in section 505(o)(1) or 518(e)(2).''.

This section shall take effect one day after date of this bill's enactment.

Mr. DODD. Mr. President, this is a second-degree amendment to my own amendment.

I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DODD. Mr. President, I suggest the absence——

Mr. COCHRAN. Mr. President, if the Senator will withhold. We are hoping that we can get a response to a request we have made of a legislative committee to react to the Senator's amendment. Senator HARKIN is on the floor and has an amendment that he has been prepared to offer for some time. I hope we can proceed in the meantime and dispose of that amendment. Would the Senator object?

Mr. DODD. No.

Mr. COCHRAN. Mr. President, I ask unanimous consent to set aside the Dodd amendment so the Senator from Iowa can offer his amendment.

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

PRIVILEGE OF THE FLOOR

Mr. HARKIN. Mr. President, I ask unanimous consent that Michele Chang and Matthew Thornblad of my staff have floor privileges for the duration of the consideration of the Agriculture Appropriations bill.

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

AMENDMENT NO. 3193

(Purpose: To provide for the conduct of anti-tobacco activities by the Food and Drug Administration)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for himself, Mr. REED, Mr. LAUTENBERG, Mr. KENNEDY, and Mr. JOHNSON, proposes an amendment numbered 3193.

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

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

The amendment is as follows:

At the appropriate place, insert the following:

SEC. ___. TEEN ANTI-TOBACCO ACTIVITIES.

(a) INCREASE IN FUNDS.—The amount described for salaries and expenses of the Food and Drug Administration under title VI shall be increased from $1,072,640,000 to $1,172,640,000.

(b) USER FEE.—The Secretary of Health and Human Services (referred to in this section as the ''Secretary'') shall, not later than 60 days after the date of enactment of this Act, and annually thereafter assess and collect from each manufacturer of tobacco products a user fee for the conduct of teen anti-tobacco activities by the Food and Drug Administration.

(c) AMOUNT.—With respect to each year, the user fee assessed to a manufacturer under subsection (b) shall be equal to an amount that bears the same ratio to $150,000,000 as the tobacco product market share of the manufacturer bears to the tobacco market share of all tobacco product manufacturers for the year preceding the year in which the determination is being made.

(d) DEPOSITS.—Amount collected under subsection (b) shall be deposited into the general fund of the Treasury.

(e) APPROPRIATION.—There are authorized to be appropriated in each fiscal year, and there are appropriated, an amount equal to the amount deposited into the Treasury under subsection (d) for that fiscal year, to be used by the Food and Drug Administration to carry out teen anti-tobacco activities under the Federal Food, Drug and Cosmetic Act.

(f) NO REQUIREMENT FOR PAYMENT.—The Secretary shall not require that a manufacturer pay a user fee under this section for any tobacco product for any fiscal year if the Secretary determines that the tobacco product involved as manufactured by the manufacturer is used by less than 0.5 percent of the total number of individuals determined to have used any tobacco product as manufactured by all manufacturers for the year involved.

(g) FINAL DETERMINATION.—The determination of the Secretary as to the amount and allocation of an assessment under subsection (b) shall be final and the manufacturer shall pay such assessment within 30 days of the date on which the manufacturer is assessed. Such payment shall be retained by the Secretary pending final judicial review.

(h) JUDICIAL REVIEW.—The amount of any user fee paid under subsection (b) shall be subject to judicial review by the United States Court of Appeals for the District of Columbia Circuit, based on the arbitrary and capricious standard of section 706(2)(A) of title 5, United States Code. Notwithstanding any other provision of law, no court shall have the authority to stay any payment due to the Secretary under subsection (b) pending judicial review.

Mr. HARKIN. Mr. President, I hope we don't have to take too long on this. I know Senator REED wants to speak. I don't know that too many others want to speak on this amendment. It is a very important amendment. It is simple and straightforward. It simply says that the laws we have that make it illegal to sell tobacco products to kids should be adequately enforced. To do that, the amendment I have just sent to the desk provides full funding for the ongoing anti teen smoking program at the FDA, which is funded through the Agriculture Appropriations bill. It pays for this with an assessment fee on tobacco companies that equals about $25 per teen smoker. The amendment does nothing more or less than that.

It in no way is intended to be a substitute for action on comprehensive tobacco reform. I am hopeful we will still have it. It does not speak for the issue of FDA authority over tobacco products. It does not impact on tobacco company advertising. And it does not impact on tobacco farmers. It simply provides the money necessary to continue an ongoing program, a program that is already in effect, but to do it in a way that is effective.

This amendment is virtually identical to the amendment that Senators CHAFEE, REED, I, and others, offered last September, which passed this body by a vote of 70 to 28 last September.

The bill before us provides $34 million for the FDA antiteen smoking initiative. That was the money that we put in there last September. That was the 70 to 28 vote that added the $34 million. But $134 million is needed to assure that the effort is fully effective. This was the amount requested by the President, and it is basically the same as was requested in the Commerce Committee tobacco bill.

So, again, the amount that is in this amendment is what was requested by the President, and it is about the same

as was requested in the Commerce Committee bill that was voted out of the Commerce Committee. Our amendment basically increases the amount in the bill for this purpose from $34 million to $134 million for next year.

As I said, it is fully offset by establishing an assessment fee on tobacco companies based on their share of the tobacco market. Because of budget scoring rules, it is necessary to collect this assessment totaling about $150 million to provide for an additional $100 million needed.

For example, if the total tobacco market in the United States this year is $100 billion, and let's say, for example, Philip Morris has 60 percent of that share, they would pay 60 percent of the $150 million, or $90 million. So the assessment on the tobacco companies is based upon their percentage of the total tobacco market in the United States. As I mentioned, this roughly equates to about $25 per teen smoker.

Mr. President, the amendment, again, returns us to the most fundamental question of our long and ongoing debate on tobacco. The fundamental question is whether we are serious about helping America's kids avoid the deadly addiction of tobacco use, and whether we are prepared to continue and adequately fund an existing program designed to deter illegal sales to children.

As I mentioned last year, this body overwhelmingly affirmed increased funding of the FDA use of the antitobacco initiative with a strong bipartisan vote, as I said earlier, of 70 to 28. That was a vote on the Chafee-Reed-Harkin amendment on September 3 of 1997.

For Senators' elucidation, this is basically the same amendment. It just takes it from $34 million to $134 million. In other words, it fully funds the program so it can be effective. Plainly and simply, this amendment is about America's kids and protecting them from the disease, suffering, and death caused by smoking and nicotine addiction.

With a death toll of more than 400,000 each year, smoking kills more Americans than AIDS, alcohol, motor vehicles, fires, homicides, illicit drugs, and suicide all combined. Mr. President, this is a chart that most graphically illustrates why tobacco is the No. 1 killer in America today. As I said, you can add up all of this—alcohol deaths, accidents, suicides, AIDS, homicides, illegal drugs, fires—and they don't equal the 418,690 deaths caused by tobacco last year.

It is an epidemic. It is an epidemic that begins with underage smoking. We know from the documents that have been released to the various court cases in the States involving the tobacco companies now that they have targeted young people. We know from their documents that 90 percent of adult smokers began at or before the age of 18. We know that for years the tobacco companies have targeted young people to smoke—not older people. They target young people because they know if they can get these young people hooked by the time they are 18, they have got them hooked.

Again, all I ask is look at the advertising the tobacco companies use. It is always young people. It is Joe Camel. It is young people. It is young people on the beach. They are having a lot of fun. And it is designed to get young people. It is not designed for old fogies like me. It is designed for the young people. All you have to do is look at the ads the tobacco companies put out there, and you will know they are trying to get young people hooked.

Today, like every other day, 3,000 young Americans will begin smoking—3,000; 1,000 of them will die every single day. That is more than three jumbo jets full of our children crashing every day. At current smoking rates, 1 million American kids under 18 who are alive today will die from slow suffocation due to a smoking-related disease. They will die hooked up to machines and craving nicotine. And teenage smoking rates are still climbing.

There is a chart that shows the rate among high school seniors. It is at a 17-year high. It has been shooting up ever since the early 1990s. We are now at a 17-year high for youth smoking. The addiction is very real. Almost half of all the kids who experiment with as few as three cigarettes go on to become regular smokers.

More than half of the kids who smoke daily said that they smoked their first cigarette within 30 minutes of waking in the morning. I found that hard to believe. But then I am not a smoker. But I drove from my house one morning. My daughter goes to a local public school out in Virginia. About 7 o'clock in the morning I drove her to school. She had a lot of stuff she had to take. I put her in the car and drove her down to school. You drive down there, and you see all of these kids walking down the streets and on the street corners before they go into school at between 7 and 7:15 in the morning smoking cigarettes. I could hardly believe it at that early hour.

Then I see that more than half of them smoke their first cigarette within 30 minutes of waking in the morning. All you have to do is go to any local school about halfway down the street before the school and watch the kids walking to school and you will see that this is true.

More than 90 percent of kids who smoke or use spit tobacco experience at least one symptom of nicotine withdrawal when they try to quit. When they say you have a choice to smoke or not, once these kids are hooked, I tell you, they don't have much of a choice.

Compared to the comprehensive tobacco legislation that we need, this amendment makes just a small investment in the future of our children. But even this small investment will pay off in longer lives and better health for millions of Americans. Since each dollar spent to implement FDA regulations has been shown to result in at least $48 worth of health and social benefits, it is a sound investment that we can make.

Let me review briefly what this amendment will fund at FDA. Right now FDA, as I said, has about $34 million in this fiscal year 1998. That is because of the amendment that was adopted here last September by an overwhelming vote of 70 to 28. They are using these funds to fund contracts with 45 States and local jurisdictions to carry out the enforcement of minimum age restrictions for tobacco purchases and to require photo ID checks.

The FDA initiative also includes funding to provide information to retailers and the public to help retailers comply with the rules and not sell tobacco to kids.

This excerpt that I have from an FDA brochure indicates some of the educational information that the FDA is using to show why it is necessary to have a photo ID check. Which one is 16? Is it Melissa or is it Amy?

If they walked into a store, would the clerk know which one was under 18? Well, to eliminate the guesswork, FDA requires retailers to card anyone who is under 27.

Melissa here is 16 and Amy is 25. So, again, you really do not know, and that is why we need a good information campaign to make sure that retailers know what they are up against in requiring these ID checks.

This year, FDA's current tobacco enforcement budget will fund 200,000 compliance checks. So the money that we voted here last fall, Mr. President, will fund about 200,000 compliance checks nationwide. That may sound like a lot, but it only covers one-fifth, one out of five or 20 percent, of the Nation's tobacco retailers. So four out of five aren't even covered.

The Secretary of Health and Human Services has estimated that three-fourths of the approximately 1 million tobacco outlets in this country sell tobacco to children—three out of four. The Centers for Disease Control and Prevention estimates that minors illegally purchase 256 million packs of cigarettes each year resulting in almost $500 million in sales. Just think of that. Over $500 million a year flow into the tobacco companies from the illegal sale of tobacco. Let me repeat that: $500 million flow into the tobacco companies every year just from the illegal sales of tobacco to young people.

What are we asking for in this amendment? We are asking for $134 million. And they are making $500 million just off of the illegal sales to minors.

The Surgeon General has concluded that children are able to buy a pack of cigarettes or a tin of spit tobacco 67 percent of the time without once ever being asked for proof of age. The amendment we have sent to the desk will more than double the number of annual compliance checks that can be

conducted and increase to 60 percent the coverage of tobacco outlets nationwide. Right now, it is only 20 percent. At least this amendment gets it up to 60 percent of the retail outlets that will be covered nationwide.

This year, the FDA is able to fund very limited outreach efforts to educate retailers, parents and the public about access and advertising restrictions. With the $34 million that we provided last fall, FDA is conducting radio, billboard and newspaper outreach campaigns, but only one city per State for 4 weeks out of every year is covered. So the $34 million we put in last year, just think about it, goes to only one city per State for 4 weeks out of every year. Now, contrast that to what the tobacco companies spend to push their product. Over $13 million every day, over half a million dollars per hour; that is what the tobacco industry is spending every minute around the clock on tobacco advertising and promotion, a whopping $5 billion—that is with a B—$5 billion a year that they spend. What we are asking for is $134 million just to get information out to conduct ID checks, to cover just a few more cities and a few more States.

This amendment we have sent to the desk will allow FDA to conduct national education and outreach efforts at a level more commensurate with the problem.

Increased funding at the level we have in our amendment would double the media exposure and double the number of markets used to communicate important information about restrictions on access to tobacco and tobacco advertising to retailers and to the general public. Comprehensive merchant education programs combined with community education and strong enforcement programs have been shown to successfully reduce illegal underage sales by 24 percent.

So you can think of this amendment in another way. How would you like to cut down on illegal underage sales of tobacco by 24 percent next year? Well, we all say we do. We all say we want to cut back on teenage smoking. Here is a proven way, an ongoing program. We are starting no new program. We are not starting any new bureaucracy, no new laws. All we are taking is an existing program and funding it a little more adequately. And we could reduce the illegal underage sales by 24 percent. So it is not a new bureaucratic program.

At least $75 million of the money will go out to State and local jurisdictions for enforcement. At least $35 million will be used to educate retailers and the public about the rules so that retailers can comply. The point of rules is not to punish anyone. It is to prevent tobacco from being sold to kids.

I just might add that this photo ID check and the minimum age rules were fully upheld by the Federal District Court in Greensboro, NC.

So to recap, this amendment simply provides funding, full funding for the ongoing FDA antiteen smoking program. The bulk of the $100 million goes to States and localities to enforce the rules, and it pays for the increase through an assessment on tobacco companies based on their total market share. So, in other words, the largest tobacco companies; that is, large based on their market share, pay more of the $150 million. The smaller companies, of course, would pay less.

As I said, a very similar amendment was supported by 70 Senators last September. So if we are prepared to stand with America's kids and their parents to take even the most basic step of effectively enforcing the rules against illegal sales of tobacco, this is the way to do it. By stopping these illegal sales, we can help our children avoid an addiction that will destroy their health and take their lives. This amendment will do that. I urge my colleagues to support the amendment.

I see my cosponsor and colleague from Rhode Island is in the Chamber. I yield the floor.

The PRESIDING OFFICER (Mr. BENNETT). The Senator from Rhode Island.

Mr. REED. Mr. President, I rise in strong support of Senator HARKIN's amendment. I am pleased to be a cosponsor of this amendment.

As the Senator indicated, last year this Senate strongly supported a virtually identical measure which would increase the enforcement ability of the Food and Drug Administration dramatically. We all know that in every State in this country it is illegal for children to buy cigarettes, but we also know it is very easy for children to buy cigarettes from vending machines and retail outlets. And last year, there were a staggering total of 256 million packs of cigarettes sold to children under the age of 18. That is an enormous amount of cigarettes, as Senator HARKIN indicated, roughly $500 million, a huge market, a very lucrative market. And we all know if we don't take effective steps to provide for the enforcement of existing State laws and education of children and, just as importantly, the retail salespeople, this staggering total will go on and on and on, with dreadful consequences to the health of our children.

Our effort today is to provide the resources to ensure that illegal tobacco sales to children are stopped if at all possible. Our amendment would fully fund the FDA's youth in our tobacco efforts by raising an additional $100 million by imposing a user fee on tobacco companies based on their market share. The pending bill, the bill that we are considering today, provides only $34 million, which is roughly one-quarter of the request submitted by the administration, to fully and effectively enforce the tobacco laws in the United States against sales of tobacco products to children.

Let's put this total in perspective, that we are asking for, this $100 million. It has already been eclipsed by the amount of money spent by the tobacco industry in advertising against comprehensive tobacco legislation this year in the U.S. Senate. Just, in fact, a few moments ago in the cloakroom, I saw another advertisement being run by the big tobacco companies. They have already spent much more than that in trying to prevent effective legislation that will curtail teen smoking in the United States.

Another aspect we should consider: This $100 million is just roughly 2 percent of the $5 billion that the industry spends each year in advertising its products, and, as we well know and has been well documented, too much of this advertising is directed at children.

We have to in some way, some small way, counteract this constant fusillade of advertising aimed at children, and one way we can do it today—far short of the comprehensive debate that we had weeks ago—one way we can do it is ensuring FDA has the resources to adequately support State efforts to suppress childhood access to tobacco products.

In terms of the money we are requesting, a total of over $100 million, it is also small compared to the health consequences of tobacco smoking in the United States. It has been estimated that over $50 billion a year is drained from our health care system because of tobacco and its effect on children. As Senator HARKIN so well indicated, this is a pediatric disease; it begins with young people. Mr. President, 90 percent or more of individuals who begin to smoke do so before they are 18 years of age. Smoking begins around 12 or 13 year old. Regular smokers are regular smokers by the time they are 14. It is a pediatric disease. It is costing us billions of dollars a year, and we have to take effective steps to stop it. This is one way that we can do it, one way I hope we can do it.

We know, too, enforcement of these laws is a significant way of curtailing access to tobacco products for children and, we hope, curtailing their exposure to tobacco and nicotine. One of the significant aspects of this amendment is, it will allow the FDA to put more resources into State efforts to curtail access to tobacco products by young people.

We all were lobbied heavily by different groups—industry groups and public health groups—about the comprehensive legislation. There is not one group that came into my office, be they public health advocates or industry representatives, that did not emphatically and unhesitatingly say, ''We are in favor of strong enforcement of existing laws that curtail teen smoking. We want this. We will do this.'' Now we have an opportunity to fulfill their desire by giving resources to the FDA to ensure that these laws are strictly and effectively and efficiently enforced.

We are talking about a situation in which we can provide resources to bolster the laws that are already on the books. As I indicated, as my colleague

indicated, every State in this country curtails teen smoking. Every quarter of this country speaks out against underage smoking. It is not just public health advocates, it is the industry. Everyone says this is wrong. Yet, unfortunately, we are seeing a tremendous rise in smoking among teenagers. It is rising dramatically. It has increased by over a third since 1991. It is one of the unfortunate health statistics related to children in America today. Again, unless we take effective steps, it will continue to rise.

We know that most young people buy their cigarettes themselves. This is not some great conspiracy where adults are out supplying kids. These are young people walking into these stores or getting access to a vending machine and buying it themselves. We know we can cut down this abuse, we know we can cut down this access, if we have stronger, better laws. More enforcement, though, of the existing laws, is certainly the first place to start.

FDA evidence indicates, if we thoroughly enforce the compliance laws of the United States, we can significantly reduce teenage smoking. We can do it without entering into some of the more extensive proposals that were entertained just weeks ago here. We can do it by providing the resources of the FDA to support the States so they can both educate their salespeople in retail categories and also to ensure that we are checking on what they are doing.

This is a terribly lucrative product. Talking to convenience store owners, many of them indicated this is the most lucrative product they have in their stores in terms of the margin on the sales they make. There is tremendous incentive to backslide, to ignore the regulations, to do anything you can to make these sales, to do anything you can to avoid the laws against selling tobacco products to minors. Unless we check them, unless we supervise them, unless we give real incentives to the States to do that, that is exactly what will happen, because that is exactly what is happening today.

We have to, I think, find a way, not just each year coming to this floor and arguing for additional resources, but in the future I hope we can find a way to permanently fund sufficient resources to fully implement State laws and other provisions that will curtail the access to tobacco products by young people. But today we have the opportunity, the real opportunity, to provide more resources so we can do in deeds what we all say in words we want done: To stop young people from buying tobacco products, to give them a chance to grow up, to give them a chance later, if they wish, as adults, to make a decision about smoking.

This is the moment for us to stand up and to literally put our money where our mouth is. I urge passage of the amendment, and I yield back my time.

Mr. FAIRCLOTH. Mr. President, this is the wrong time for a debate on tobacco taxes. No one is opposed to food safety, but I'm not so enthusiastic about a plan that raises taxes on already cash-strapped tobacco farmers to pay for new USDA bureaucrats.

Farmers all over the country are hurting, and we're pledging to help them, but this amendment will continue to hold up our work on this bill.

We all know that this is just politics because the House will ''blue slip'' the bill.

This is certainly the wrong time to make things worse for tobacco farmers—the real effect of this amendment. This is a misguided attempt to tax small farmers to pay for the Clinton Administration's new spending proposals.

Mr. President, like farmers everywhere, tobacco farmers are hurting. The southeast is dry. We don't know how much tobacco the companies will buy. We shouldn't be passing any amendments that make their lives any tougher. This will do just that.

So, the tobacco farmer is about to get hit—again. Like he has been throughout this tobacco debate, the farmer is forgotten.

The farmer will get hit with lower prices for his tobacco as the companies try to hold the line on costs.

What happened to all the talk about helping farmers, the demands for action?

Instead, this amendment proposes to throw up another hurdle in their way, another obstacle to making the payments, in order to fund President Clinton's new spending.

The companies will take this tax out of the price paid to the farmer. This will cost some farmers their farms. Like a lot of farmers, they are on the edge, and we certainly shouldn't pass legislation to make it worse.

American tobacco is the most expensive in the world, and the tobacco companies may respond to higher costs with increased use of imported tobacco.

Let me say it again: the tobacco farmer can't afford another drop in income. His production quota keeps dropping, but the loan balances keep growing.

This amendment is an attempt to score political points. Let's not play political games at the expense of good public policy.

Further, this amendment initiates a tax measure in the Senate. The federal budget is 1.6 trillion dollars, but this amendment would raise taxes, yet again, on small farmers to pay for more bureaucrats.

It's wasteful and unconstitutional.

Tax and spend. Tax and spend.

I want to commend the distinguished chairman and ranking member of the agriculture appropriations subcommittee for their work.

This is a critical bill for my State and includes a number of important provisions for my farmers. I am reluctant to interfere with it, but if this amendments passes, I will be forced to do so on behalf of those very farmers.

I will personally call the Chairman of the Ways and Means Committee and alert him to ''blue slip'' this bill.

This amendment is anti-farmer, Mr. President. We just passed a Sense of the Senate resolution declaring our intent to help farmers. We just added an amendment for disaster assistance that will aid farmers in my State.

How we can turn around and pass an anti-farmer amendment like this today? It's not right, Mr. President.

I urge my colleagues to vote against this amendment.

Mr. KENNEDY. Mr. President, I strongly support the Harkin amendment, which fully funds the Food and Drug Administration's youth anti-smoking initiative at $134 million.

These FDA rules were upheld by a Federal court in Greensboro, North Carolina last year. They prohibit the sale of tobacco to minors, and require retailers to check the photo identification of consumers who purchase tobacco products if they look 27 years old or younger. Of the $134 million which President Clinton requested in his FY1999 budget, $75 million will go to the States for enforcement, and $35 million will go for education and outreach to retailers to ensure compliance with these regulations.

The pending bill provides only $34 million for this important initiative—$100 million less than President Clinton requested. The funding level in this bill is clearly inadequate. States will be able to check only 20% of tobacco retailers to ensure that they are not illegally selling tobacco products to minors. The additional $100 million in the Harkin amendment will increase that coverage to 60% of retailers.

By establishing a minimum age to purchase tobacco products, and by requiring photo ID checks of young buyers, this initiative can make a significant difference in reducing youth smoking. Teenage tobacco use in the United States has clearly reached epidemic proportions. According to a report in April by the Centers for Disease Control and Prevention, smoking by high school students rose by nearly a third between 1991 and 1997. Among African-Americans, smoking has soared by 80%. More than 36% of all high school students smoke—a 19-year high.

Once people are hooked on cigarette smoking as children, it is very difficult for them to quit as adults. Ninety percent of current adult smokers began to smoke before they reached the age of 18. In other words, if people reach age 18 without having smoked, they are unlikely to begin smoking as adults.

Even more disturbing is that teenagers under-estimate the addictiveness of nicotine. Studies have found that 86% of teenagers who smoke daily and try to quit smoking are unsuccessful.

Big Tobacco has known this fact for years. The tobacco companies are fully aware that if they do not persuade children to take up smoking, the industry will collapse in the next generation. That's why the industry has targeted children with billions of dollars in advertising and promotional giveaways. They promise popularity, maturity,

and success for those who take up smoking.

Evidence from the tobacco industry's own files indicates their blatant and cynical marketing to kids. A 1975 Philip Morris report by researcher Myron Johnston described how Marlboro became the most popular cigarette brand among young smokers. According to Mr. Johnston:

> Marlboro's phenomenal growth rate in the past has been attributable in large part to our high market penetration among young smokers . . . 15 to 19 years old. . . . My own data, which includes younger teenagers, shows even higher Marlboro market penetration among 15 to 17 year olds. . . . The teenage years are also important because those are the years during which most smokers begin to smoke, the years in which initial brand selections are made, and the period in the life-cycle in which conformity to peer group norm is greatest.

An R.J. Reynolds memo written before the introduction of the Joe Camel marketing campaign emphasized that ''younger adult smokers are critical to R.J. Reynolds' long-term profitability. Therefore, RJR must make a substantial long-term commitment of manpower and money dedicated to younger adult smoking programs.''

It's no coincidence that shortly after R.J. Reynolds launched its Joe Camel campaign in 1988, Camel's share of the youth market skyrocketed from less than 1% to 33% in the 1990s.

An undated Lorrilard memo stated boldly what we have known all along about Big Tobacco, that ''the base of our business are high school students.''

Because the tobacco companies have cynically marketed their deadly products to children, it is essential for the Senate to take strong action to prevent cigarettes from getting into the hands of children. Children and adolescents have little trouble purchasing tobacco products directly from retailers today. Studies have found that nearly 70% of the time that children and adolescents attempt to buy cigarettes from retailers, they succeed. If these youngsters have any problem at the counter, they go to a vending machine, where they can successfully purchase cigarettes 90% of the time.

According to Professor Joseph DiFranza of the University of Massachusetts Medical Center, ''If $1 billion in illegal sales were spread out evenly over an estimated one million tobacco retailers nationwide, it would indicate that the average tobacco retailer breaks the law about 500 times a year.''

The Harkin amendment will prevent thousands of children from lighting up their first cigarette. It is a reasonable step to prevent youth smoking that has the strong support of the American public. I urge the Senate to approve it.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, first, we should not be legislating on appropriations bills. We are getting to a point that we cannot pass appropriations bills for all the legislation that is on the appropriations bills, especial something of this magnitude.

I understand how easy it is to talk emotionally about children, but there are two things wrong with this amendment. One, it is not relevant, because under the unanimous consent agreement that these would be relevant amendments, this is not. So you have a point there. Second, there is a budget point of order that will be made against the amendment, and therefore we should go ahead and, I guess, get rid of it.

But this is just nibbling again. The bill I wanted to try to get through here did not go. I wanted to take care of my farmers a little bit, but no one seems to think about those. It makes it a little bit hard to take. But the amendment invites us to reopen the tobacco debate, and I do not think this is the time or the place. What is next, liability limitations? That would be quite a debate. What next, tax increases? That would be a real debate. What next, new programs? That is what we have here, new programs.

We began debating this bill on June 18, 4 weeks ago. It is time we stopped considering legislative amendments that go way beyond the scope of this bill.

I received, and I guess all my Democratic colleagues received:

Support Harkin amendment to fund FDA's ongoing teen antitobacco initiative. This is no anti-teen-smoking initiative, when you get right down to it. The amendment fully funds the FDA youth and anti-tobacco efforts by imposing a tobacco industry user's fee of $100 million, or approximately $25 per child who uses tobacco products. How do you know that? It is really not $100 million. The amendment says $150 million. Are we into that phrase now, ''a haircut''—you have to raise $150 million to get $100 million? Anyhow, the information I got was it was $100 million. I read the amendment and it says $150 million.

This is a tax on adults. This is a tax on adults. It says the tobacco product market share. It has nothing to do with how many teens smoke. We hear about ''spit tobacco.'' The HHS set a level, by the year 2000, of no more than 4 percent of those between 12 and 17 would be using spit tobacco. The rate today is 1.9. The industry is doing a wonderful job—twice the amount that was set by HHS by the year 2000, without any imposition by this legislative body. So now we are putting a tax on adult smokers, trying to fog it up with teen programs.

Mr. President, I understand what is going on. This is a new tax being described as a $25-per-kid tax without any basis. It started out with a survey. That is a terrible way to tax. It has nothing to do with youth smoking or how many youth are smoking. This is a $150-million tax increase as assessed based on the share of the adult market—not teenagers, the adult market. It was based on the adult use of the product and taxes adult use of the product. It should not be on an agricultural bill.

The amendment raises taxes, not by $100 million that we have heard, but $150 million. It is based on a terrible public policy. We should not be raising taxes on an agriculture appropriations bill anyhow. This amendment should be defeated, maybe not for its purpose, but for its procedure.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I appreciate the arguments made by my friend and colleague from Kentucky. I want to try to clear it up, if I can, and say to my colleague from Kentucky that we do not reopen the tobacco program. This has nothing to do—or tobacco debate.

Mr. FORD. Mr. President, I did not say anything about the tobacco program.

Mr. HARKIN. I am sorry, I misspoke. The Senator said something that it is going to reopen the tobacco debate.

Mr. FORD. That is correct.

Mr. HARKIN. This doesn't do it.

Mr. FORD. You are already doing that. You are in the tobacco industry. You are attacking the tobacco industry, and it is all about tobacco.

Mr. HARKIN. If the Senator will yield.

Mr. FORD. You have the floor.

Mr. HARKIN. I will get into a discussion with the Senator on this because this amendment—it kind of all wraps up because the Senator from Kentucky also said this shouldn't be on an ag appropriations bill. He also said we should not have a new program. This is not a new program, it is an ongoing program. It is funded under agricultural appropriations because we fund the FDA. That is exactly where we fund the FDA.

This amendment doesn't start anything new. It takes an existing program at the FDA and expends the money. That is what an appropriations bill does. We are not legislating on an appropriations bill. There is no legislation here, I say to my friend from Kentucky. We are only increasing the money.

Mr. FORD. You are legislating a tax, and it isn't limited to 1 year, it is ongoing.

Mr. HARKIN. I respond again to the Senator from Kentucky that there are other assessments and user fees in this bill. So why should the tobacco companies be exempt from an assessment? There are, I point out, a number of other assessments on industry in this ag appropriations bill. So this is nothing new and startling.

Again, we are not reopening the tobacco debate. This amendment was offered last summer, last September, and was voted on, and it carried by a vote of 70 to 28.

That amendment raised $34 million. What is different between that amendment and this amendment is, this amendment raises an additional $100

million. I know what the Senator is going to say about the 150. I want to explain that.

Mr. FORD. I know about the haircut, but in the amendment it is $150 million.

Mr. HARKIN. And I will explain why that is.

Mr. FORD. It is still $150 million out of the taxpayer's pocket.

Mr. HARKIN. The reason it is is because if we put an assessment, I say to the Senator from Kentucky—if we put an assessment on the tobacco companies to pay into this, that assessment they can deduct from their taxes. They deduct it from their taxes. And so in order to score it to get the $100 million that we need to fully fund the FDA youth ID check, we have to assess the $150 million because they get to write that off on their taxes. To get to $150 million, we have to do the $100 million assessment.

Mr. LOTT. Mr. President, will the Senator yield just for a question?

Mr. HARKIN. I sure will yield for a question.

Mr. LOTT. I am trying to get some idea as to where we are on time so we can notify Members when we can expect a vote. Is the Senator going to need more time?

Mr. HARKIN. No, I don't need more time. I am going to finish this up.

Mr. LAUTENBERG. I will take 5 or 6 minutes.

Mr. HARKIN. I don't need any more time.

Mr. LOTT. I urge my colleagues on both sides of the aisle—I am beginning to see the natives circling around here. We hoped we could have finished this bill at 4 o'clock this afternoon. I urge my colleagues, we know the issue. There is going to be a point of order made, and I hope that point of order will proceed. We need to conclude this bill. We have other work.

Mr. NICKLES. Will the leader yield?

Mr. LOTT. Mr. President, if the Senator will yield.

Mr. HARKIN. Mr. President, I will yield for a question without losing my right to the floor.

Mr. NICKLES. I ask the leader, this side would like to have a couple minutes to respond. I have a possible suggestion of having the vote at 7 o'clock and dividing the time equally.

Mr. LOTT. I ask unanimous consent, Mr. President, that we have 15 minutes remaining on this issue, equally divided—half and half—and we have the vote on the point of order at 7 o'clock.

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

Mr. LOTT. I thank the Senator.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, how much time do I have now?

The PRESIDING OFFICER. The Senator from Iowa has 7½ minutes.

Mr. HARKIN. Mr. President, I yield myself whatever time I consume right now.

This is not a new program, it is ongoing. We are not opening any debates. We had an amendment last fall for $34 million. This adds $100 million more on it. We had to for the scoring. They get $150 million and they can deduct it from their taxes. The reason it is on ag appropriations is that it should be here because it has to do with FDA; it is funding and it is money. That is what an appropriations bill is all about. We are not legislating on an appropriations bill.

Again, 70 Senators last September voted for this amendment. Seventy Senators on both sides of the aisle voted for $34 million. This bumps it up to $100 million to fully fund the youth ID check nationwide.

Mr. President, I yield the floor.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I yield myself 2 minutes.

I urge my colleagues to vote ''no'' on this amendment. We have debated this issue before, but I will make a couple comments because maybe some of my colleagues are not aware of what this amendment has.

This amendment has $150 million of a new tax, and unlike any other tax that we passed that I am aware of, this allows the Secretary of Health and Human Services to conduct a survey. And from that survey, she is going to raise—she being Secretary Shalala at this point—is going to raise $150 million.

I find that incredible. If the Senator wants to raise the cigarette tax, raise the cigarette tax; say we are going to have an excise of so many cents per pack, and that is fine, that is legitimate. But to say we are going to have a survey that basically is going to be deemed to be accurate and give the Secretary of Health and Human Services the power and authority to raise that tax is absurd. It is terrible tax policy.

Then it is to enforce, what? The FDA regs. The FDA regs, some people are acting like they are sacrosanct, like they are good. FDA regs dealing with ID check, which I heard my colleague bragging about, have the Federal Government involved in enforcing ID checks up to age 27.

It is illegal to smoke up to age 18, but we are going to have the Federal Government setting up an enforcement mechanism to find out if people 26 years old are buying cigarettes. And if they don't check an ID—if you have a convenience store or something and you don't ask what their age is when they are 26 years old, you are in violation of the regulation, and you can be fined up to $10,000. That is the FDA reg that he is wanting to give FDA more power to enforce.

Do we really want to give the Federal Government enforcement powers to be checking the IDs of young adults up to age 26, and if you do not comply, you can be fined up to $10,000? I think that is absurd. Equally as bad is to give the Secretary of Health and Human Services taxing authority, to be able to raise $150 million.

I think they are two of the worst pieces of policy I have seen. We have debated tobacco at length. I am willing to do some things to discourage tobacco consumption. All this would do would be to encourage bureaucracy at FDA. I urge my colleagues to support the point of order by the Senator from New Mexico.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, have I been yielded time?

Mr. HARKIN. How much time do I have, Mr. President?

The PRESIDING OFFICER. The Senator has 6 minutes left.

Mr. LAUTENBERG. Four.

Mr. HARKIN. I yield 4 minutes.

Mr. LAUTENBERG. Thank you, Mr. President.

I thank my colleague from Iowa and commend him for raising this issue and for presenting a way—that has been thus far deterred from becoming law—of reducing teen smoking. That is the mission here. We have already seen the leadership kill the comprehensive tobacco bill. So in the wake of the tobacco bill's death, the only existing nationwide program to reduce the teen smoking of cigarettes is an FDA rule. The FDA program needs this additional funding.

We went through extensive debate. I do not know whether the Senator from Oklahoma is still on the floor, but he voted for this when we considered it before. Those who oppose this funding once again stand to say no to protecting our kids, to trying to reduce teenage smoking. They are standing directly or inadvertently with the tobacco industry.

Mr. President, the FDA rule prohibits—nationwide—the sale of tobacco products to anyone under the age of 18. Without sufficient enforcement money, the rule is unnecessary because it will lack the teeth to force retailers to comply.

Friends of big tobacco have already blocked our attempt to pass a comprehensive effort to reduce teen smoking, and now what we will see is tobacco's influence once again prevailing here. They are going to be able to thwart our existing efforts to control teenage smoking.

What is their mission? Their mission is to get 3,000 kids every day to buy a pack of butts that is going to ruin their health in not too many years. So the money that we approve today is a bargain compared to what we will be forced to spend in later years in treating smoking-related illnesses.

Mr. President, this is a fairly simple issue. If we adhere to what we say is our code of conduct—and that is to reduce teen smoking—then the rest of this debate is superfluous, I must tell you. Yes, we ought to try to find a way

to pay for it that is as directly connected to the FDA rule as possible. That is what we have attempted to do here.

But whether or not you are supporting this amendment has little to do with the funding issue; it has to do with whether or not we really believe that stopping teen smoking is a good objective. I hope that we will see that in a vote that is soon to come, Mr. President.

With that, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. GRAMM. Mr. President, how much time do we have left?

The PRESIDING OFFICER. Four minutes 39 seconds.

Mr. GRAMM. I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, this is the second amendment we have had today on this bill that has, in essence, raised tobacco taxes and spent the money. I want our colleagues to understand that both parties can play this game. If we are going to continue, by bits and pieces, to raise tobacco taxes and spend the money, we are going to raise tobacco taxes and give the money back to the working men and women of America by cutting their taxes.

I think we are making an absolute sham out of the appropriations process. I think we need to stop this kind of business. I am confident we are going to sustain the point of order against this amendment. But I want to put people on record, if we are going to continue to raise tobacco taxes and spend the money, then I am going to move—and I am sure others will join in that effort—to take that same money and cut taxes for the working men and women of America.

The PRESIDING OFFICER. Who yields time?

Mr. HARKIN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Two minutes 57 seconds.

Mr. HARKIN. Mr. President, I understand some point of order is going to be raised, I assume by the Budget chairman, I suppose, on this; and then we will have a vote to override the Budget Act. But don't get caught up in all of that. That is not what it is about. What it is about is whether this Senate wants to effectively fund an ongoing program to enforce the rules that keep kids from illegally buying cigarettes. That is all it is.

We voted on this last September. Seventy Senators voted for it—$34 million. We are bumping it up to $100 million, that is right. Where are we getting it from? The tobacco companies. Yes, it is an assessment. But they do not have to pass it on. They do not have to have it as a tax or whatever. But they have to pay it based upon their market share.

So don't get all caught up in whether this is going to be a tax on tobacco companies or this budget point of order. That is nonsense. This is a vote on whether or not we will fund the FDA's program to effectively cut down on teenage smoking in this country. That is all it is. And it pays for it by getting an assessment from the tobacco companies based upon their market share.

Tobacco companies would have to put in $150 million, of which they get a tax deduction, so we get the $100 million to fund it. That is a drop in the bucket to what the tobacco companies make every year. Surely—surely—this Senate can go on record as sticking up for the kids and making sure we have the money to adequately enforce the FDA rule so our kids do not become addicted to cigarettes. That is all this issue is—no more, no less; plain and simple. Which side are you going to be on when we cast this vote on a so-called budget point of order?

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I am for the kids, but I am also for passing an appropriations bill that helps all the farmers in the United States and puts into play the entire agricultural program of this country.

Frankly, Mr. President, the other day I came to the floor and talked about, how much longer are we going to spend debating the cigarette tax and various expenditures under that program? I made a mistake, I told the listeners that we had 2 weeks. We had 4 weeks to debate these issues. Now we are scheduled to pass appropriations bills that will keep our Government running and more and more, for some reason, we leave it to everybody here to speculate—the other side continues to offer amendments, be it on the tobacco issue or some other program that has nothing to do with the appropriations process, that delays it and then puts in motion things that actually put the bill in jeopardy.

The Senator just spoke and said this was not a budget issue. Let me tell you, it is a budget issue. It is a budget issue to the tune of $100 million being added to the expenditure side of a balanced budget 5-year plan, because under the Budget Act you cannot count taxes against expenditures like this. So we are breaking the budget to the tune of $100 million—$100 million.

It seems to this Senator we ought not to be doing that when we just got a 5-year agreement in place. And so it is subject to a point of order. The Senator can say it is technical. I say it is real.

In addition, I say this approach of imposing taxes—and this is a tax according to the Congressional Budget Office—should not be taking place on appropriations bills that are already late. Mark my word, the President of the United States will be giving the Republican leadership—he will be saying to them, ''You can't get your work done. You didn't get the appropriations done.''

Let me tell you, this violates the spending caps that we agreed to—plain and simple. I do not believe we ought to do that on this bill when that chairman spent weeks and weeks in his committee trying to not break the caps. We come along with an amendment, and it sounds nice, sounds kind of sexy politically, but essentially it is reopening the debate that we had for 4 solid weeks here on the Senate floor.

Now, for all the reasons I stated, but more important, because the Budget Act so provides, I make a point of order against the pending amendment under section 302(f) of the Budget Act of 1974.

Mr. President, let me say, I believe the Senate ought to stand up and say we are not going to break the budget here. We are going to stand on this point of order of substance and deny the efficacy of this amendment because it can't sustain the 60 votes required.

I make the point of order and I yield the floor.

MOTION TO WAIVE BUDGET ACT

Mr. HARKIN. I move to waive the Budget Act and ask for the yeas and nays.

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

The question is on agreeing to the motion to waive Budget Act. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Ohio (Mr. GLENN) is necessarily absent.

The result was announced—yeas 49, nays 50, as follows:

[Rollcall Vote No. 208 Leg.]

YEAS—49

Akaka	Dorgan	McCain
Baucus	Durbin	Mikulski
Biden	Feingold	Moseley-Braun
Bingaman	Feinstein	Murray
Bond	Graham	Reed
Boxer	Harkin	Reid
Bryan	Inouye	Robb
Bumpers	Johnson	Rockefeller
Byrd	Kennedy	Sarbanes
Chafee	Kerrey	Smith (OR)
Cleland	Kerry	Snowe
Collins	Kohl	Specter
Conrad	Landrieu	Torricelli
D'Amato	Lautenberg	Wellstone
Daschle	Leahy	Wyden
DeWine	Levin	
Dodd	Lieberman	

NAYS—50

Abraham	Gorton	Mack
Allard	Gramm	McConnell
Ashcroft	Grams	Moynihan
Bennett	Grassley	Murkowski
Breaux	Gregg	Nickles
Brownback	Hagel	Roberts
Burns	Hatch	Roth
Campbell	Helms	Santorum
Coats	Hollings	Sessions
Cochran	Hutchinson	Shelby
Coverdell	Hutchison	Smith (NH)
Craig	Inhofe	Stevens
Domenici	Jeffords	Thomas
Enzi	Kempthorne	Thompson
Faircloth	Kyl	Thurmond
Ford	Lott	Warner
Frist	Lugar	

NOT VOTING—1

Glenn

The PRESIDING OFFICER. On this vote, the yeas are 49, the nays are 50.

Three-fifths of the Senators duly chosen and sworn not having voted in the

affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

Mr. COCHRAN. Mr. President, I move to reconsider the vote by which the motion was rejected.

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

The motion to lay on the table was agreed to.

Mr. HATCH. Mr. President, I call the Senate's attention to an issue that is very important to our livestock producers and small meatpackers. I know that my colleagues are aware of the difficulties the livestock industry has faced in recent years. In an effort to find solutions for small farmers and livestock producers, the Secretary of Agriculture called three separate commissions: The Advisory Committee on Agricultural Concentration, the National Commission on Small Farms, and the National Advisory Committee on Meat and Poultry Inspection. Each of these commissions has recommended that the ban restricting the interstate distribution of state-inspected meat be lifted. For that reason I have introduced, along with Senators FEINGOLD, THOMAS, BROWNBACK, LANDRIEU, BURNS, ENZI, and ROBERTS, S. 1291, The Interstate Distribution of State-inspected Meat Act. This proposal would lift the ban on interstate distribution of state-inspected beef, pork, and poultry, which are the only products in the United States that face such a restriction. This measure is endorsemed by the Farm Bureau, the Farmers Union, the National Cattlemen's Beef Association, and the American Sheep Industry Association. This issue is one of both fairness and common sense, and I believe it merits consideration by the Senate.

I'd like to ask the distinguished Chairman of the Agriculture Committee if he would hold hearings in the Agriculture Committee on this proposal sometime in the near future, so we could promptly consider the measure next year.

Mr. LUGAR. I would like to say to my good friend from Utah that I am aware that this issue has arisen in the past and that it is an important one. I agree with Senator HATCH that the measure deserves a hearing in the near future, and I would be happy to work with him to that end.

Mr. HATCH. I appreciate the willingness of the Chairman of the Agriculture Committee to give this legislation a hearing, and I believe it will make for an interesting one. I look forward to working with the distinguished Senator from Indiana and the Agriculture Committee on this issue.

Mr. COCHRAN. Mr. President, I thank the Senator from Utah and the Chairman of the Agriculture Committee for working this out. I believe the best procedure for addressing this issue would be through the Senate Agriculture Committee.

Mr. BYRD. Mr. President, I rise in support of the Agriculture, Rural Development, and Related Agencies Appropriations Bill. The $57.2 billion in new budget authority that this bill proposes will benefit millions of Americans, both urban and rural. In addition to funding food and nutrition programs such as Food Stamps, WIC, and the school lunch program, the bill funds almost $1.7 billion worth of badly needed agricultural research and extension programs to improve the productivity of our farmers as well as the nutritional value of our food supply. It allocates $1 billion for farm assistance programs such as farm ownership and operating loans. It helps restore and protect our farmlands and watersheds by designating $792 million for conservation programs. It ensures the safety of our nation's food and medicine by allocating $952 million to the Food and Drug Administration. Finally, by providing $2.1 billion for rural development programs, the bill addresses one of my long-standing priorities—implementing and maintaining basic community infrastructure. This bill will bring water and sewer systems to 840 small rural communities. It will allow almost 62,000 of rural America's working families to purchase homes, and, by providing funding for the construction or rehabilitation of 6,900 rental units, this budget addresses the desperate need for affordable housing in America's heartland.

For my own state of West Virginia, this bill provides an increase of $1,250,000 for research on Cool and Cold Water Aquaculture at Leetown, West Virginia which includes $1,000,000 to initiate trout genome research. The bill also provides an increase of $300,000 for the Appalachian Fruit Research Station at Kearneysville, West Virginia to improve profitability of this important part of the West Virginia farm sector.

In addition to these and other research programs important to my state, this bill also includes a number of important conservation measures. Among these include assistance for the Knapps Creek watershed project, flood control in the Tygart River and Upper Tygart Valley watershed, continuation of the important Potomac Headwaters project, funding the grazing lands initiative in West Virginia, and many other programs important for West Virginia farmers, rural communities, and protection of our environment.

The chairman and ranking member of the Agriculture Subcommittee, Senators COCHRAN and BUMPERS, are very knowledgeable of the many competing interests that require funding in this bill. They are to be commended for their ability to craft a bill that meaningfully addresses the challenges confronting our farmers, rural communities, and the Food and Drug Administration, given the budgetary constraints within which they had to work. I applaud their efforts and that of their staff: Galen Fountain and Carole Geagley for the minority and Rebecca Davies, Martha Poindexter, and Rachelle Graves for majority.

Mr. DURBIN. Mr. President, I rise today to express my concern with language included in the House version of the agriculture appropriations bill that could have the effect of depriving rural working poor families of perhaps the only source of information they have on the federal Earned Income Tax Credit.

In my own state of Illinois, for tax year 1996, over 750,000 working families received this critical tax relief. The EITC lifts approximately 4.6 million children out of poverty each year while encouraging work. The tax credit helps a substantial number of low-income working households in rural areas. A 1996 information bulletin published by the USDA Economic Research Service (No. 724–02) noted the importance of the EITC for rural working families: ''The earned income tax credit (EITC) has become a major source of support for low-income rural workers and their families, especially in the South, where the rural poor are concentrated. Program benefits for rural areas are expected to total about $6 billion in 1996 . . . providing benefits to an estimated 4.5 million low-income rural workers and their families.''

Unfortunately, report language included in the House's FY 1999 agriculture appropriations bill could deter and discourage important educational work done by CES offices. The language questions the appropriateness of CES involvement in informing families in their local communities about the EITC. This language could prompt many CES offices to discontinue their efforts to educate eligible workers about the tax credit. If that occurs, substantial numbers of low-income working families in rural areas could lose an important source of information about federal tax relief for which they qualify.

In Illinois, Coop Extension Services offices in 22 counties or communities (many rural) have been working to alert eligible working families to the EITC. The University of Illinois-Urbana Cooperative Extension Service provides programs to low-income working parents and students, including a teen parent welfare-to-work program in the high schools of East St. Louis. It published a notebook, ''The Easy Way to Prepare Your 1996 Individual Income Tax Return,'' for distribution to program participants. The notebook contains simplified tax return instructions, including how to determine eligibility for the EITC and calculate the amount of the credit. The program surveyed participants, and found that only a third of the participants had filed a tax return previously, but 86 percent filed a return after their training. A third of the participants were found to be eligible for the EITC.

The House language is simply not acceptable and should be rejected by the Senate conferees on the agriculture appropriations bill.

MARKET ACCESS PROGRAM

Mr. BRYAN. Mr. President, I wish to make a few comments about my

amendment to the Agriculture Appropriations bill that was adopted last night by the Senate. This amendment requires the Secretary of Agriculture to make important information about the Market Access Program (MAP) and its expenditures available to the Congress and to the General Accounting Office (GAO).

It is no secret that I am no fan of this program, Mr. President. I would have rather eliminated funding for the Market Access Program completely, as we attempted to do with an earlier amendment. Unfortunately, this wasteful program's corporate handouts survived, but the reporting amendment adopted by the Senate will at least give auditors the tools they need to thoroughly investigate the impact of this program.

As I pointed out earlier on the floor of the Senate, the claims that are continually used to justify MAP and extend its life have been called into question by the General Accounting Office (GAO) in a study published last year. The report, which was requested by the Chairman of the House Budget Committee, JOHN KASICH, evaluated claims that MAP benefits the U.S. economy, boosts the agriculture sector, and helps counter competitor nations' agricultural export assistance programs.

The GAO could not find evidence to authenticate any of these claims.

In fact, the GAO assailed the lack of accountability within the Market Access Program and the general lack of clear and complete data available for their analysts.

With major questions left unanswered, the GAO has been unable to produce an honest and useful evaluation of the program that could help Congress and program administrators choose policies that will provide the most benefits to the United States.

In the conclusion to its report on the Market Access Program, GAO suggested that ''Congress may wish to direct USDA to develop more systematic information on the potential strategic value of U.S. export assistance programs.''

That is exactly what this amendment will do.

My amendment requires the Secretary of Agriculture, in consultation with the Comptroller General of the United States, to submit a report that analyzes the costs and benefits of the program in compliance with OMB guidelines and treats resources as fully deployed, two of the GAO's main criticisms of earlier program analyses for MAP and other export assistance programs.

The amendment would require the USDA to estimate the impact on the agriculture sector as well as on U.S. consumers, while also considering the costs and benefits of alternative uses of the funds currently allocated to MAP.

Another requirement calls for an analysis of increases in exports, controlling for outside influences, such as exchange rates and international market conditions, that can have a great influence on international trade.

Finally, the Department is required to evaluate the sustainability of promotion efforts in the absence of government subsidies, an important question that has not been asked throughout the life of these programs.

Again, Mr. President, I would have liked to eliminate the funding for MAP altogether and turn to other, proven programs to increase the strength of our agriculture sector, but this amendment moves in the right direction by opening up the inner workings of MAP and making this program more accountable.

I am hopeful that using these recommendations to gather additional useful information in a report to Congress will finally establish what benefits can truly be attributed to MAP and will help us make informed decisions about this program.

THE MEAT LABELING ACT

Mr. JOHNSON. Mr. President, I am pleased to announce the Senate has accepted the Meat Labeling Act of 1998 as an amendment to S. 2159, the Agricultural Appropriations Bill of 1998 which provides appropriations for FY 1999 for the United States Department of Agriculture, the Food and Drug Administration, and other related agencies.

As we all know, we can easily determine which country manufactured the automobiles we drive through country of origin labeling. We can easily tell where our clothing was made by simply looking at the label or tag on our shirts or trousers. And also, we can easily determine where our computers, stereos, and telephones were made by simply looking at the products' label. But, surprisingly, when we go to the grocery store to purchase meat products for our families to eat, we have no idea where that meat originated.

Throughout my service in the United States Congress, I have been a strong believer in country of origin labeling for products—whether it be for automobiles, clothing, technological, or food products. I have been an especially strong supporter of country of origin labeling for meat products because of its common-sense nature, its benefits to ranchers, farmers, and consumers, its strong bipartisan and agricultural group support, its cost-free benefit to taxpayers as scored by the Congressional Budget Office (CBO), and its trade friendly provisions.

After many years of effort to pass meat labeling legislation, we have finally succeeded. I would like to thank Senator CRAIG for his strong support and willingness to work with me, as well as Agriculture Appropriations Subcommittee Chairman COCHRAN and Ranking Member BUMPERS.

In April of 1997, I introduced, along with Senators CRAIG, DASCHLE, BURNS, and BAUCUS S. 617, the Meat Labeling Act of 1997, which would require that beef and lamb products be labeled for country of origin so consumers can make the choice to buy meat produced from livestock raised on American ranches and farms.

Since my introduction of S. 617, the Meat Labeling Act of 1997, received the strong bipartisan support of 16 of my colleagues—8 Democrats and 8 Republicans. Also, it has enjoyed the enthusiastic support of every major agricultural organization including the National Farmers Union, the American Farm Bureau, the National Cattlemens Beef Association, and the American Sheep Institute.

The amendment that has been accepted by the Senate, the Meat Labeling Act of 1998, has the same country of origin labeling spirit in mind but has been modified slightly from S. 617. My amendment requires beef and lamb meat products to be labeled as imported and allows for voluntary labeling of those beef and lamb products for their country of origin.

The Meat Labeling Act of 1998 is designed in the following way. My amendment requires beef and lamb meat products to be labeled as imported beef or imported lamb, and it permits imported beef and lamb to bear a label identifying the country-of-origin. US beef and lamb would also bear labels of designation. Finally, beef and lamb products blended with beef or lamb from the US and another country would bear a blended label.

Also, the Meat Labeling Act of 1998 creates a voluntary labeling study for ground beef or lamb. As you may know, ground beef (hamburger) and lamb are the remains of meat carcasses after they are utilized for the prime cuts. My legislation recognizes the difficulties in determining the exact country of origin status of the ground beef or lamb and therefore, does not mandate it to be labeled for country of origin immediately.

Instead, my legislation is designed to allow a study of the impact and costs to producers, processors, and consumers of labels for ground beef or lamb. After one year of voluntary labeling, the United States Secretary of Agriculture will then take six months to determine the costs, benefits, and impacts of voluntary labeling and if the Secretary deems it to be cost effective and beneficial to all involved then the labeling of ground beef and lamb will become effective.

As we all know, America's ranchers and farmers are very proud of the fine beef and lamb products they produce. This legislation reflects that pride our ranchers and farmers have in their products. In fact, ranchers and farmers throughout South Dakota tell me over and over that when America's consumers have a choice between US beef or imported beef, consumers will chose US beef because of its quality and its nutritional value.

The benefits to consumers are many. First of all, consumers have the right to know where their food is produced because of prices, quality, taste, safety, etc. If passed, this legislation will finally permit the competitive free market to determine the demand and price of beef and lamb meat products through consumer choice.

Also, a national survey in December 1995 found 74 percent of consumers favored labeling; 51 percent would buy American produce, even if it cost more than imports of equal quality and appearance. Furthermore, an April 1997 survey conducted in Florida showed that 96 percent consumers surveyed strongly agreed that food products should have a country of origin.

Clearly, this evidence shows that American consumers want country of origin labeling for the food they eat.

Labeling is affordable. Preliminary estimates from USDA show that labeling meat may cost an estimated 20 CENTS per customer per year.

This legislation is consistent with the General Agreement on Tariffs and Trade (GATT.) Most of our major trading partners, including Canada, Japan, Australia and the EU, require country of origin labeling for produce and meat products. This legislation simply levels the playing field for our producers and consumers.

Clearly, the Meat Labeling Act of 1998 is broadly supported by American producers and consumers. It enjoys strong bipartisan support in Congress, is endorsed by every major agricultural organization, incurs zero costs to taxpayers, and benefits consumers in numerous ways.

I would like share from you part of a recent letter I received from the major agricultural organization supporting my legislation:

''Consumers demand quality and consistency, and producers are continually working to meet consumer demands. With the current system, there is limited ability to identify the source of product that does not meet consumer demands. Import labeling will help differentiate products in the retail meat case and increase competition among product lines. With labeling, consumers will have the ability to make informed decisions when purchasing meat and meat products an the relative value of meat from different product lines will be determined through competitive forces in the marketplace.''

Finally, I ask unanimous consent that the following documents be printed in the RECORD: A letter addressed to me from the National Farmers Union, the American Farm Bureau Federation, the National Cattlemen's Beef Association, and the American Sheep Industry Association, a July 15, 1998, letter from the National Consumers League the largest and oldest consumer organization in the United States, and a September 16, 1997 editorial from the Sioux Falls Argus Leader.

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

JULY 8, 1997.

Hon. TIM JOHNSON,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR JOHNSON: The following organizations urge you to join the bi-partisan co-sponsorship and support for the ''Meat Labeling Act of 1998,'' to be substituted for the original S. 617 language and offered as an amendment to the Senate agricultural appropriation bill.

Industry leaders from each organization testified before the Senate Committee on Agriculture, Nutrition, and Forestry to urge support for legislation to require labeling of imported meat. The ''Meat Labeling Act of 1998'' will address frustrations among U.S. producers who question why livestock imported into the U.S. for immediate slaughter are allowed to be marketed as U.S. product. In short, the bill will ensure truth in labeling. The legislation does not establish trade barriers to limit the ability of countries to export meat to the U.S. and does not violate U.S. obligations under provisions of international trade agreements. It is our understanding that the proposed legislation is consistent with U.S. responsibilities and commitments to the GATT and NAFTA.

During 1997, beef imports were equal to about 9 percent of total U.S. beef production. Most of this imported beef was blended into ground beef or processed beef products or sold at the retail meat case as U.S. product. In addition to beef imports, nearly 1.1 million live cattle were imported from Canada directly to U.S. packing plants during 1997. Although all of the value-added production took place in Canada, once these cattle were processed in U.S. packing plants they effectively became U.S. beef. Imported lamb on a volume basis has increased from just over 7 percent of the U.S. lamb supply in 1993, to 20 percent in 1997. During the first quarter of 1998, lamb imports reached 25 percent and when computed on a carcass equivalent basis made up approximately one-third of the total lamb supply in the U.S.

Consumers demand quality and consistency, and producers are continually working to meet consumer demands. With the current system, there is limited ability to identify the source of product that does not meet consumer demands. Import labeling will help differentiate products in the retail meat case and increase competition among product lines. With labeling, consumers will have the ability to make informed decisions when purchasing meat and meat products and the relative value of meat from different product lines will be determined through competitive forces in the marketplace.

The following organizations greatly appreciate your leadership in this effort. We look forward to working with you to enact this legislation.

Sincerely,

AMERICAN FARM BUREAU FEDERATION.
AMERICAN SHEEP INDUSTRY ASSOCIATION.
NATIONAL CATTLEMEN'S BEEF ASSOCIATION.
NATIONAL FARMERS UNION.

NATIONAL CONSUMERS LEAGUE,
Washington, DC, July 15, 1998.

Hon. TIM JOHNSON,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR JOHNSON: The National Consumers League, the nation's oldest nonprofit, consumer advocacy organization, supports the requirement to label imported meat and meat food products. As consumption and reliance on imported meat increases, it is vital that consumers are afforded the utmost levels of protection to prevent food-borne illness. One of the most effective means to achieve this goal is through consumer knowledge. Clear and accurate labeling of the country of origin of meat is an important step to providing consumers with such knowledge.

Labeling is a powerful tool to inform consumers about the origins of the food they eat. While America's meat supply is considered the safest in the world, a large portion of the meat Americans consume is from other countries. By labeling meat, consumers will have an informed choice and a right to know the product's origin.

We thank you for providing strong leadership on this issue. We look forward to working with you to continue to ensure that American consumers enjoy the safest possible food supply.

Sincerely,

BRETT KAY,
Program Associate, Health Policy.

[From the Sioux Falls Argus Leader, Sept. 16, 1997]

CONSUMERS HAVE RIGHT TO KNOW ORIGIN OF MEAT

Many U.S. consumers assume the meat they purchase at the grocery store is produced by American farmers, but that's not necessarily so.

Imported meat inspected abroad under standards set by the U.S. Department of Agriculture goes on the shelves unlabeled with reference to the country of origin, just as U.S. meat does.

Consumers have a right to know where the meat they buy comes from. Just about every other item in stores is so labeled.

A bill introduced by U.S. Sen. Tim Johnson, D–S.D., would require country-of-origin labeling of meat at retail outlets.

Lawmakers may be hesitant to pass the law for fear of drawing ire from trading partners that might suffer from xenophobic consumers. They should consider the history of other imported products. Labeling certainly hasn't hurt the market for Japanese cars, French perfume or apples from New Zealand.

The recent recall of 25 million pounds of suspect ground meat by a Hudson Foods plant in Columbus, Neb., shines a glaring light on the importance of knowing sources of meat. The E. coli contamination is thought to have originated at a slaughterhouse—but where?

The uncertainty is unfair to producers and packers that run tight ships, because consumers who can't determine the origination of a problem will consider all sources a possibility.

A meat-labeling law would best require wholesale buyers to record the sources of meat they purchase by company name as well as location.

Meaningful meat labeling would hold producers both in foreign countries and in the United States accountable for the quality and safety of their products.

Consumers, livestock producers and reputable packers should all be clamoring for a law to identify the origin of meat.

Mr. DOMENICI. Mr. President, I rise in support of the Department of Agriculture and Related Agencies Appropriations bill for fiscal year 1999.

The Senate-reported bill provides $56.7 billion in new budget authority (BA) and $40.8 billion in new outlays to fund most of the programs of the Department of Agriculture and other related agencies. All of the funding in this bill is nondefense spending. This Subcommittee received no allocation under the Crime Reduction Trust Fund.

When outlays for prior-year appropriations and other adjustments are taken into account, the Senate-reported bill totals $55.2 billion in BA and $47.5 billion in outlays for FY 1998. Including mandatory savings, the Subcommittee is at its 302(b) allocation in BA and outlays.

The Senate Agriculture Appropriations Subcommittee 302(b) allocation totals $55.2 billion in budget authority (BA) and $47.5 billion in outlays. Within this amount, $13.7 billion in BA and $14.1 billion in outlays is for nondefense discretionary spending.

For discretionary spending in the bill, and counting (scoring) all the mandatory savings in the bill, the Senate-reported bill at the Subcommittee's 302(b) allocation in BA and outlays. It is $43 million in BA and $24 million in outlays above the President's budget request for these programs.

I recognize the difficulty of bringing this bill to the floor at its 302(b) allocation. I appreciate the Committee's support for a number of ongoing projects and programs important to my home state of New Mexico as it has worked to keep this bill within its budget allocation.

Mr. President, I ask unanimous consent that a table displaying the Senate Budget Committee scoring of the bill be printed in the RECORD. I urge the adoption of the bill.

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

S. 2159, AGRICULTURE APPROPRIATIONS, 1999—SPENDING COMPARISONS—SENATE-REPORTED BILL

[Fiscal year 1999, dollars in millions]

	Defense	Nondefense	Crime	Mandatory	Total
Senate-reported bill:					
Budget authority		13,715		41,460	55,175
Outlays		14,080		33,429	47,509
Senate 302(b) allocation:					
Budget authority		13,715		41,460	55,175
Outlays		14,080		33,429	47,509
1998 level:					
Budget authority		13,930		35,048	48,978
Outlays		14,227		35,205	49,432
President's request:					
Budget authority		13,672		41,460	55,132
Outlays		14,056		33,429	47,485
House-passed bill:					
Budget authority		13,596		41,460	55,056
Outlays		14,031		33,429	47,460
SENATE-REPORTED BILL COMPARED TO:					
Senate 302(b) allocation:					
Budget authority					
Outlays					
1998 level:					
Budget authority		−215		6,412	6,197
Outlays		−147		−1,776	−1,923
President's request:					
Budget authority		43			43
Outlays		24			24
House-passed bill:					
Budget authority		119			119
Outlays		49			49

NOTE.—Details may not add to totals due to rounding. Totals adjusted for consistency with current scorekeeping conventions.

NUTRITION EDUCATION AND TRAINING PROGRAM

Mr. LEAHY. Mr. President, I raise the visibility of a little-known, but praiseworthy, program—the Nutrition Education and Training Program. I am speaking today in defense of this program, which now seems to be on life-support, and in dire need of resuscitation. For those who are not aware, the Nutrition Education and Training Program, NET, is a direct grant-to-States program which provides the nutrition education and food service training component of the Child Nutrition Programs. Under NET, all funds are distributed to the States. States and local governments leverage these limited resources into effective and innovative education and training programs for children, food service personnel, and parents. I know in my own State of Vermont, the creativity and innovation of the NET staff has provided unique and valuable nutrition materials that are relevant to thousands of Vermonters. Over the past 20 years, NET has promoted an infrastructure and quality standards that support local schools in providing nutritious meals and improving the health and nutrition behavior of our Nation's children. State and local NET coordinators have been responsible for much of the local success of the nutrition education effort.

NET programs are intended to teach children about the nutritional value of foods and the relationship between food and health. The program is also intended to provide nutrition education for teachers and training in nutrition and food service management for school food service personnel, and to facilitate development of classroom materials and curricula. This is done through a State Nutrition Education Coordinator who identifies the needs of the State—this is important—the program is not one size fits all, full of restrictions and mandates from Washington, but rather a cooperative program that is tailored to State needs.

Sadly, I am here today to report on the dire funding status of NET. In fiscal years 1997 and 1998, NET has struggled along at a level of only $3.75 million—this is a far cry from the original program in 1978–79 of $26.2 million—giving each State a level of 50 cents per child. The fiscal year 1999 House appropriations bill funds NET at only $3.75 million and the Senate bill provides nothing—putting all funds into Team Nutrition at $10 million. This low level of funding has diminished NET's effectiveness and threatens its viability to provide nutrition education to the nearly $9 billion Child Nutrition Programs it supports.

A few years ago, as Chairman of the Agriculture Committee, I supported a change in the law to provide NET with a guaranteed $10 million per year to provide important Nutrition Education activities. This level is not a budget-busting amount, and is in fact the amount the President requested in the fiscal year 1999 budget for this program. Unfortunately, in the rush toward welfare reform in 1996, NET's status as a mandatory program was rescinded, and the funding levels for NET have been problematic ever since.

I urge when the Conference on the Agriculture appropriations bill convenes that NET be provided adequate funding. The Child Nutrition Programs are absolutely critical to our Nation's future. Along with those benefits, we must give our children the chance to choose the right foods, to select a diet suited for them based on the facts and not on the latest billion-dollar junk food advertising.

NUTRITION FOR THE ELDERLY PROGRAM

Mr. DURBIN. Mr. President, I rise today in order to engage the chairman of the Agriculture Appropriations Subcommittee, Senator COCHRAN in a brief colloquy regarding the need for increased funding for the nutrition for the elderly program, contained in this bill. Senior nutrition programs are our best defense against elderly hunger and malnutrition. The House has provided $10 million more than the Senate for this program which helps our elderly, low-income seniors have good, nutritious meals. This increased funding would restore funds for both meals on wheels and meal sites by $10 million to $150 million to their FY96 levels.

The Senior nutrition program provides grants to states so that local organizations can prepare meals delivered to elderly persons in both congregate settings or in their homes. Many poor seniors rely on these programs as their primary source for nutrition. Unfortunately, 41% of Meals on

Wheels programs have a waiting list. As the senior population grows, these waiting lists will only increase without adequate funding both local and federal for home-delivered meals programs. The average beneficiary for senior nutrition programs is 77 years old and 90% of beneficiaries live on income below 200% of the poverty level. 40% live on incomes below the poverty level. These poor seniors really need this program. I hope that the House level of funding will alleviate some of these waiting lists.

Studies conducted at the University of Florida found that over 66% of beneficiaries of senior nutrition programs are at moderate to high risk for malnutrition. In addition, these senior nutrition programs not only make good social policy sense, but they also make good fiscal policy sense. Every $1 spent on this nutrition program saves $3 in federal Medicare, Medicaid, and veterans' health care costs, since malnourished patients stay in the hospital nearly twice as long as well-nourished seniors, costing $2,000 to $10,000 more per stay. HHS Secretary Shalala has called these elderly nutrition programs ''a bargain for the federal government''.

This program also provides cash assistance to state agencies to help store and donate food to low-income seniors.

Home-delivered meals programs highlight positive values through volunteerism and community support. It is this type of cost-effective, federal-local partnership that Congress should be encouraging. This level of funding is endorsed by the National Council of Senior Citizens, the Grey Panthers and the Meals on Wheels Association of America.

4 million seniors live in poverty in this, the richest nation in the world. Another 16 million live near the poverty level. Our seniors are going hungry because we cut funding for this seniors nutrition program two years ago. Now is the time to restore this funding to its FY96 levels in conference.

Mr. COCHRAN. I thank the Senator from Illinois. As Senator DURBIN knows, the committee has worked hard over the past several years to maintain this very important program. I will work with my colleagues in conference to see that the House level of funding is available for seniors. With the greying of America, the need for this program has clearly increased and as the Senator from Illinois has stated, many of these meals on wheels sites have long waiting lists. I thank the Senator from Illinois for bringing this issue to our attention.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, I would like to make an announcement here of how we are going to proceed for the balance of the night.

SENATOR SAM BROWNBACK RECEIVES GOLDEN GAVEL AWARD

Mr. LOTT. Mr. President, I want to recognize the distinguished Senator that is the Presiding Officer at this time. He is another one of our Members that has reached that magic mark of 100 hours as Presiding Officer. Senator BROWNBACK has done an outstanding job in presiding and handling the gavel. He has earned the Golden Gavel Award.

This is a tradition that started several years ago, and it helps make this institution work as it should. And I would like to extend a sense of appreciation to Senator BROWNBACK for his time as the Presiding Officer.

(Applause, Senators rising.)

Since the 1960's, the Senate has recognized those dedicated Members who preside over the Senate for 100 hours with the Golden Gavel. This award continues to represent our appreciation for the time these dedicated senators contribute to presiding over the U.S. Senate—a very important duty.

Senator BROWNBACK spent a significant amount of unscheduled time in the chair during last night's votes and still insisted upon meeting his presiding duties today. For his ongoing commitment to presiding, we thank him and extend our congratulations on receiving the Golden Gavel Award.

ORDER OF PROCEDURE

Mr. LOTT. Mr. President, for the information of all Senators with regard to the schedule tonight, I understand the Senate will be voting very shortly now on final passage of the agriculture appropriations bill. The managers have worked out the Dodd amendment, and we will be shortly ready to go to final passage.

Following that vote, the Senate would then resume consideration of the HUD-VA appropriations bill. There is an amendment pending to that appropriations bill, which I understand may be withdrawn. But it is my hope and the intent of the managers—I was just talking to Senator BOND and Senator MIKULSKI—that we would get time agreements on amendments that are pending, and finish all debate on all amendments tonight, and then the votes that would be required would be in the morning at 9:30.

We would then go to the legislative appropriations bill during Friday's session.

So votes could be expected on Friday's session at 9:30 with one other possible vote.

I am hoping maybe that the legislative appropriations bill will not have any complicating issues and that it could be handled by a voice vote, or with only one vote.

I would like to finish it all tonight. But the managers have a number of amendments they have to work through.

So what we would have, then, as we now see it, is final passage on agriculture, go to HUD-VA, and we have one issue that may be resolved, which would then not require a vote, and then we would go on to the amendments.

So it is possible that after this next vote, the next recorded vote will not be until 9:30 in the morning. We will do everything we can to not go late tomorrow and certainly not later than 12 o'clock. But cooperation from Senators on both sides will allow us to actually finish it up by 10 o'clock or 10:30 tomorrow.

Mrs. FEINSTEIN. This is the last vote?

Mr. LOTT. We have one other issue we have to get clarified. This could be the last vote, but right now we could have one more right after this one. And we will clarify that in the next few minutes and notify all Senators.

Mr. COCHRAN addressed the Chair.

Mr. REID. Is there a unanimous consent pending?

Mr. LOTT. There is no unanimous consent request pending.

The PRESIDING OFFICER. The Senator from Mississippi.

AMENDMENT NO. 3192

Mr. COCHRAN. Mr. President we are now on the Dodd amendment. We had asked for the yeas and nays. We now have been able to work out that amendment and agreed to take that amendment to conference.

I ask unanimous consent that the yeas and nays be vitiated with that understanding.

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

AMENDMENT NO. 3192, AS MODIFIED

Mr. DODD. Mr. President, I ask unanimous consent to send a modification of my amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (No. 3192), as modified, is as follows:

In the amendment strike all after the first word and insert the following:

SEC. ___. NOTIFICATION OF RECALLS OF DRUGS AND DEVICES.

This section shall be referred to as ''Matthew's Law''.

(b) DRUGS.—Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) is amended by adding at the end the following:

''(o)(1) If the Secretary withdraws an application for a drug under paragraph (1) or (2) of the first sentence of subsection (e) and a class I recall for the drug results, the Secretary shall take such action as the Secretary may determine to be appropriate to ensure timely notification of the recall to individuals that received the drug, including using the assistance of health professionals that prescribed or dispensed the drug to such individuals.

''(2) In this subsection:

''(A) The term 'Class I' refers to the corresponding designation given recalls in subpart A of part 7 of title 21, Code of Federal Regulations, or a successor regulation.

''(B) The term 'recall' means a recall, as defined in subpart A of part 7 of title 21, Code of Federal Regulations, or a successor regulation, of a drug.''.

(c) DEVICES.—Section 518(e) of such Act (21 U.S.C. 360h(e)) is amended—

(1) in the last sentence of paragraph (2), by inserting ''or if the recall is a class I recall,'' after ''cannot be identified''; and

(2) by adding at the end the following:

''(4) In this subsection, the term 'Class I' refers to the corresponding designation given recalls in subpart A of part 7 of title 21, Code of Federal Regulations, or a successor regulation.''.

(d) CONFORMING AMENDMENT.—Section 705(b) of such Act (21 U.S.C. 375(b)) is amended—

(1) by striking ''or gross'' and inserting ''gross''; and

(2) by striking the period and inserting '', or a class I recall of a drug or device as described in section 505(o)(1) or 518(e)(2).''.

This section shall take effect one day after date of this bill's enactment.

Mr. DODD. Mr. President, the yeas and nays have been vitiated?

The PRESIDING OFFICER. The yeas and nays have been vitiated.

Mr. DODD. Mr. President, let me say briefly, if I may, for purposes of the RECORD on this amendment, I want to express my gratitude to the managers of the underlying bill, the agriculture appropriations bill, for their support on this, as well as my colleague from Vermont, Senator JEFFORDS, and Senator KENNEDY of Massachusetts.

There may be some technical questions that have to be addressed in conference.

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

The PRESIDING OFFICER. May we please have order in the Chamber.

The Senator from Connecticut.

Mr. DODD. Mr. President, there may be some technical questions that we will have to address in conference, and I have agreed, if that is the case, I would certainly strongly support those corrections, but I am deeply grateful for support of this amendment and ask unanimous consent it be adopted.

The PRESIDING OFFICER. The question is on agreeing to the second-degree amendment. Without objection, the amendment is agreed to.

The amendment (No. 3192), as modified, was agreed to.

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

The amendment (No. 3176), as amended, was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. COCHRAN. Mr. President, we have reached the point where we are prepared to recommend approval of two other amendments that we have cleared on both sides. It is my understanding we have. And I ask my colleague from Arkansas if he is prepared to recommend the passage of our amendment that we are offering for Senators BAUCUS, LEAHY, and SESSIONS, and then an amendment offered in behalf of Senator COVERDELL.

Mr. BUMPERS. Mr. President, the first amendment that the chairman mentioned has been cleared on this side. The amendment by Senator COVERDELL has not.

The PRESIDING OFFICER. Who seeks recognition?

AMENDMENT NO. 3194

Mr. COCHRAN. Mr. President, the amendment that I suggested had been cleared is one that is offered by Senators BUMPERS and myself for Senators BAUCUS, LEAHY, and SESSIONS. I understand that amendment has been cleared on both sides. I send that amendment to the desk and ask that it be reported.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for himself and Mr. BUMPERS, for Mr. BAUCUS, Mr. LEAHY, and Mr. SESSIONS, proposes an amendment numbered 3194.

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

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

The amendment is as follows:

On page 13, line 11, strike ''$50,500,000'' and insert ''$51,400,000''.

On page 14, line 17, strike ''$432,082,000'' and insert ''$432,982,000''.

Mr. COCHRAN. Mr. President, this amendment would provide additional funding for three new special research grants, as follows:

Food safety (Alabama) $300,000;

Brucellosis vaccine (Montana) $150,000; and

Food Science Center (Vermont) $150,000.

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

The amendment (No. 3194) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. COCHRAN. Mr. President, I know of no other requests for recognition.

I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. I ask unanimous consent that Senator BYRD be listed as a cosponsor on the Bumpers sense-of-the-Senate resolution on program funding levels which was previously adopted.

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

Mr. COCHRAN. Did the clerk read the bill for the third time?

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

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

The PRESIDING OFFICER. The clerk will report the House bill.

The bill clerk read as follows:

A bill (H.R. 4101) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1999, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. All after the enacting clause of H.R. 4101 is stricken, and the text of S. 2159, as amended, is inserted in lieu thereof.

The question is on the third reading of the bill.

The bill (H.R. 4101), as amended, was ordered to a third reading and was read the third time.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

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

Mr. FORD. I announce that the Senator from Ohio (Mr. GLENN) is necessarily absent.

The result was announced—yeas 97, nays 2, as follows:

[Rollcall Vote No. 209 Leg.]

YEAS—97

Abraham	Faircloth	Lugar
Akaka	Feingold	Mack
Allard	Feinstein	McCain
Ashcroft	Ford	McConnell
Baucus	Frist	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	Sarbanes
Chafee	Hutchison	Sessions
Cleland	Inhofe	Shelby
Coats	Inouye	Smith (NH)
Cochran	Jeffords	Smith (OR)
Collins	Johnson	Snowe
Conrad	Kempthorne	Specter
Coverdell	Kennedy	Stevens
Craig	Kerrey	Thomas
D'Amato	Kerry	Thompson
Daschle	Kohl	Thurmond
DeWine	Landrieu	Torricelli
Dodd	Lautenberg	Warner
Domenici	Leahy	Wellstone
Dorgan	Levin	Wyden
Durbin	Lieberman	
Enzi	Lott	

NAYS—2

Kyl	Santorum

NOT VOTING—1

Glenn

The bill (H.R. 4101), as amended, was passed, as follows:

[The text of the bill was not available for printing. It will appear in a future edition of the RECORD.]

The PRESIDING OFFICER. The Senate insists on its amendment, requests a conference with the House, and the Chair appoints the following conferees.

The Presiding Officer [Mr. SESSIONS] appointed Mr. COCHRAN, Mr. SPECTER, Mr. BOND, Mr. GORTON, Mr. MCCONNELL, Mr. BURNS, Mr. STEVENS, Mr. BUMPERS, Mr. HARKIN, Mr. KOHL, Mr.

LEAHY, Mrs. BOXER and Mr. BYRD conferees on the part of the Senate.

Mr. COCHRAN. Mr. President, I express my sincere appreciation to all Senators for their assistance and cooperation in the consideration of the agriculture appropriations bill. In particular, I thank my distinguished colleague and good friend from Arkansas, who has served for 20 years as a member of this committee and was helping manage the agricultural appropriations bill for the last time in his Senate career. He has been not only a very good friend but very helpful, thoughtful, intelligent and effective as a Senator in this capacity, helping shape this legislation during the time we have had the opportunity to work together as members of the Appropriations Committee.

I am going to miss him very much. The Senate is going to miss DALE BUMPERS. He is one of the most astute, articulate and effective Senators serving in the Senate today.

I want Senators to know, too, that at my request, this bill includes a general provision to designate the United States National Rice Germplasm Evaluation and Enhancement Center in Stuttgart, AR, the DALE BUMPERS National Rice Research Center.

In my judgment, Senator BUMPERS is the father of this center. He has helped guide the development of the research there in this important agriculture sector. I think it is very appropriate and I was pleased that the subcommittee included that in our committee print. It was approved by the full committee and is included in the bill that was passed by the Senate.

Mr. President, I also say that without the wonderful assistance of members of our staff and the other members of our subcommittee, the passage of this bill would not have been possible.

I particularly praise the hard work and effective work of the chief clerk of our subcommittee, Rebecca Davies. Those who have assisted her have also turned in exemplary performances, and I appreciate very much all of their work. They are: Martha Scott Poindexter, Rachelle Graves, Hunt Shipman, who is a member of my personal staff and legislative assistant for agriculture and other issues, and our summer intern, Haywood Hamilton, from Albin, MS, who we are glad to have with us in our office this summer.

Those who worked closely with Senator BUMPERS on the Democratic side: Galen Fountain, his chief assistant on this subcommittee we have come to know and appreciate over a period of time, and we are grateful for his excellent assistance; Cornelia Teitka, who is a designee allocated to us as a resource from the Department of Agriculture, has been very helpful in the handling of the legislation; Ben Noble and Carole Geagley also have assisted them from Senator BUMPERS staff. We thank them all. We appreciate very much everyone's good efforts in the work on this bill.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, I extend my congratulations and appreciation to the managers of this very important agriculture appropriations bill. My colleague from the State of Mississippi, Senator COCHRAN, always exhibits patience and real leadership on this important legislation. I thank him for what he does. And also to Senator BUMPERS, I think it is absolutely appropriate that this National Center on Rice Research be named after Senator BUMPERS. He certainly has labored in the vineyards on rice and also on the agriculture appropriations bill.

So thank you both for the work that you have done.

Mr. DASCHLE. Will the majority leader yield for a moment?

Mr. LOTT. Certainly.

Mr. DASCHLE. I join with the majority leader in complimenting the manager, the very distinguished Senator from Mississippi, as well as our ranking member. This will be the last bill our ranking member will manage, at least on the appropriations side. He may have other responsibilities in other committees, but on this bill it will be his last bill. We will miss his managerial skills, his remarkable sense of humor, and the ability that he demonstrates each and every day to work with all of us. So I compliment both of them and thank them for their fine work tonight.

I thank the majority leader for yielding.

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1999

Mr. LOTT. I ask unanimous consent that the Senate now resume the HUD-VA appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2168) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1999, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Daschle amendment No. 3063, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage.

Mr. LOTT. Mr. President, I ask unanimous consent that with respect to the HUD-VA appropriations bill, all first-degree amendments must be offered and debated tonight, and if votes are ordered with respect to those amendments, they occur, in a stacked sequence, beginning at 9 o'clock in the morning—I want to emphasize to our colleagues, we are beginning a little earlier than normal; it will be 9 o'clock; and we will go right to the stacked sequence, with 2 minutes of debate prior to each vote for explanation, as has been requested and is the normal practice—and that all succeeding votes be limited to 10 minutes.

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

Mr. LOTT. Now, Mr. President, I know that there are several amendments that need to be worked through. I see that Senator WELLSTONE is here on the floor ready to go. And I believe we can get some time agreements on other issues.

Does the manager, Senator BOND, wish to comment?

Mr. BOND. Thank you.

Mr. President, I believe Senator NICKLES was prepared to go, and I know that Senator WELLSTONE wants to go right after that. But I believe before we move forward, I need to yield to the distinguished minority leader who has to deal with this. It was our understanding from the discussions that Senator NICKLES would move forward on a major amendment he has, and then I would hope we would be able to turn to Senator WELLSTONE.

With that, let me yield to the minority leader.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

AMENDMENT NO. 3063 WITHDRAWN

Mr. DASCHLE. Mr. President, the majority leader and I have been talking throughout the day. And I believe we are making progress in setting up a procedure by which at some point in the not too distant future—I think the prospects are greater tonight than they have been in some time—we might have a good debate on the Patients' Bill of Rights. Because I believe that these negotiations are proceeding successfully, I withdraw the pending amendment on HUD-VA with an expectation that we will come to some successful conclusion at a later date.

The PRESIDING OFFICER. The amendment is withdrawn.

The amendment (No. 3063) was withdrawn.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Might I make a request for 1 second?

I ask unanimous consent that I be able to follow the Nickles amendment, so I can go back to the office and come back.

Mr. BOND. No objection.

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

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I thank the majority leader and the minority leader for allowing us to get back to this VA-HUD bill. We have had good discussions on it. We have had a very important amendment debated at length on

the space station. This is always one of the important points that we have to debate on the VA-HUD bill.

We have had great cooperation from Senators on both sides. I think we have narrowed the list of amendments. And we hope to be able to accept and include in the managers' amendment many of the things that have been raised by our colleagues.

We are now waiting for Senator NICKLES to come forward to debate an amendment on the FHA limits. But we do have a number of amendments we can accept while we are waiting.

AMENDMENT NO. 3195

(Purpose: To increase funds for VA homeless grant and per diem program)

Mr. BOND. First, I send an amendment to the desk on behalf of myself, Senator CLELAND, and Senator MIKULSKI and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Missouri [Mr. BOND], for himself, Mr. CLELAND, and Ms. MIKULSKI, proposes an amendment numbered 3195.

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

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

The amendment is as follows:

On page 7, line 18, add the following new provisos prior to the period: ": *Provided further*, That of the funds made available under this heading, $14,000,000 shall be for the homeless grant program and $6,000,000 shall be for the homeless per diem program: *Provided further*, That such funds may be used for vocational training, rehabilitation, and outreach activities in addition to other authorized homeless assistance activities".

Mr. BOND. Mr. President, this amendment would provide, within the $17.2 billion medical care appropriation, $20 million for VA's homeless grant and per diem program. The amendment would make these funds available for vocational training, outreach, shelter, and other important activities to aid homeless veterans in a comprehensive manner.

This should help meet the needs of the 275,000 veterans who are estimated to be homeless on any given night of the year. Together with funds already included in the bill, we will have provided $100 million in VA homeless assistance. This is a critical need. I commend the other Senators who worked on supporting this. I urge adoption of the amendment.

Mr. CLELAND. Mr. President, I would like to thank the Chairman and Ranking Member for their outstanding leadership on this important piece of legislation. Given the hard work that went into this bill, I wanted to first express my appreciation for what they have done. I am reminded of the old phrase "too many cooks spoil the broth." Sometimes the legislative branch might be thought of in that way. As I offer this amendment, I have attempted to be mindful not to "spoil the broth."

As the former head of the Veterans Administration, the veterans portion of this bill continues to be near and dear to my heart. I am extremely pleased to see that the Appropriations Committee under the leadership of Senator BOND and Senator MIKULSKI has increased funding for the Department of Veterans Affairs by over $1.5 billion when compared to last year's budget. This represents a real increase in funding even when inflation is factored in. Senator BOND and Senator MIKULSKI are true friends of America's veterans, and we thank them.

The amendment I have offered attempts to fill a void that exists with respect to services for veterans. When I was head of the Veterans Administration, it was clear to me that the VA could not be everywhere at all times. We relied heavily on other government agencies and private entities in our attempt to assure that all veterans could obtain the benefits they were entitled to and the assistance they needed. Today, in an era of balanced budgets, we cannot depend solely on federal dollars to solve every problem. The era of balanced budgets brings with it the era of partnership.

The VA must continue to partner with other entities to fulfill its mission. For instance, in this year's Defense Authorization bill, I have authored language which would strongly encourage the VA to partner with the Department of Defense to provide health care for our nation's military personnel, their dependents, military retirees, and veterans.

Today, I am advocating much stronger partnering between the VA and the private sector to fill the basic needs of our nation's veterans. The Homeless Providers Grant and Per Diem Program was established in 1992 to fund the development and operation of transitional housing for homeless veterans who are free of alcohol and drugs. Over 2,000 beds have been made available under this program. Over $21 million has been appropriated for this purpose.

Unfortunately, the current program is completely inadequate in the face of the overwhelming need which exists for housing for homeless veterans. The VA estimates that over 275,000 veterans are currently homeless on any given night. In a given year, over 500,000 veterans find themselves homeless at some point. In Atlanta, Georgia, nearly 10,000 veterans are in need of homeless assistance. This is clearly unacceptable. A mere 2,000 beds, while important, would not meet the needs of one state, let alone the entire nation. The program does not come close to fulfilling the entire need. Currently at approximately $7 million, it represents less than two-hundredths of a percent of the entire VA budget.

The amendment I have offered would set aside $20 million for the Homeless Providers Grant and Per Diem program. This would nearly triple the amount available for this program. It would also insure that funds are available for rehabilitation, vocational training, and outreach. These are critical elements because the list of successful programs have demonstrated that helping veterans become drug and alcohol free and employable is the best way to insure that they not find themselves homeless again. Furthermore, it is important to provide for successful outreach to veterans in need to insure that veterans are able to take advantage of the services, both public and private, that are available to them.

Several groups have contacted me since I was elected to the Senate to seek support for the veterans assistance projects they are trying to establish or expand. I would like to take a few moments to describe two such programs.

Last year, the Georgia Military College conducted a pilot program in which veterans voluntarily undergoing drug rehabilitation were offered a college course. The program was paid for through the proceeds of a golf tournament sponsored by the Atlanta Veterans Administration Medical Center. Eighteen veterans participated in the original program. In light of the initial success, the Georgia Military College seized on the idea of expanding the program not only to provide for education but to offer additional counseling and to provide shelter for the participants. The College is in the process of establishing a 5-year program aimed at improving the lives of Georgia's homeless veterans. This is the type of program that can truly make a difference. Instead of a "band-aid" approach, it offers true skills training, and the transitional housing these veterans need to be able to continue with the program.

The National Veterans Foundation offers perhaps one of the most important services a nation can provide to our veterans in need—a human voice. The Foundation was founded by Floyd "Shad" Meshad in 1985 to help veterans recover from the pain of war. It has aided over a quarter of a million veterans, funding housing, legal services, job training, counseling, and rehabilitative programs. A major focus of the Foundation is its toll-free Information and Referral Line. Shad Meshad refers to it as a "Clearing House" to direct veterans and their families to the assistance they need. It is a real human voice on the other end of the line, not a recording. Over the years, the National Veterans Foundation has logged thousands of calls. Unfortunately, this critical outreach program is only available during business hours, Monday through Friday. Our veterans deserve the kind of service provided by the National Veterans Foundation—but they deserve it 24 hours a day, 7 days a week.

These are just two of the types of programs that deserve the support of the VA. In my view, it is only lack of resources which currently limits that support. It should be made clear that what we are talking about is not the old give-away of federal funds. This is not new "corporate welfare." I was introduced to the Homeless Providers

Grant and Per Diem program fairly recently. I was surprised to learn that the Veterans Administration does not currently have a comprehensive grant program that could fund meritorious projects, but it does have this program. I believe the Homeless Providers Grant and Per Diem Program combined with a future comprehensive grant program will leverage federal dollars with private, state, and local money to create a multiplier effect that will aid our nation's veterans for years to come. It is my intent to introduce legislation in the future to provide the necessary statutory authority to establish a comprehensive grant program that goes beyond the current homeless assistance program.

Mr. President, I would like to thank Senator BOND and Senator MIKULSKI for their cooperation and support for this amendment. Without their leadership, this amendment would not be possible. I look forward to working closely with them in the future to further assist our nation's veterans.

I yield the floor.

Ms. MIKULSKI. Mr. President, I am proud to concur with Senators CLELAND and BOND on this amendment. It will increase by $13 million the amount for the homeless grants for the VA. Nobody who fought to save our country should be out on the street. These men have borne the permanent wounds of war, some of which have caused deep-seated emotional problems—unable to find a job.

What I like about the VA homeless program is, it not only provides a shelter but tries to get them focused on starting a new way of life. We have an outstanding one in Maryland. I am proud of it. And I look forward to accepting this amendment and say hats off to try to give the vets a new lease on life.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Without objection, it is so ordered.

The amendment (No. 3195) was agreed to.

Mr. BOND. I move to reconsider the vote.

Ms. MIKULSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3196

(Purpose: To require entities that operate homeless shelters to identify and provide certain counseling to homeless veterans)

Mr. BOND. Mr. President, on behalf of Senator MCCAIN, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Missouri [Mr. BOND], for Mr. MCCAIN, proposes an amendment numbered 3196.

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

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

The amendment is as follows:

On page 93, between lines 18 and 19, insert the following:

SEC. 423. (a) Each entity that receives a grant from the Federal Government for purposes of providing emergency shelter for homeless individuals shall—

(1) ascertain, to the extent practicable, whether or not each adult individual seeking such shelter from such entity is a veteran; and

(2) provide each such individual who is a veteran such counseling relating to the availability of veterans benefits (including employment assistance, health care benefits, and other benefits) as the Secretary of Veterans Affairs considers appropriate.

(b) The Secretary of Veterans Affairs and the Secretary of Housing and Urban Development shall jointly coordinate the activities required by subsection (a).

(c) Entities referred to in subsection (a) shall notify the Secretary of Veterans Affairs of the number and identity of veterans ascertained under paragraph (1) of that subsection. Such entities shall make such notification with such frequency and in such form as the Secretary shall specify.

(d) Notwithstanding any other provision of law, an entity referred to subsection (a) that fails to meet the requirements specified in that subsection shall not be eligible for additional grants or other Federal funds for purposes of carrying out activities relating to emergency shelter for homeless individuals.

Mr. BOND. Mr. President, this amendment will assist homeless veterans by requiring the federally funded homeless shelters report to the Veterans' Administration the number of homeless veterans they serve, and it seeks to ensure that these homeless veterans be provide information regarding the availability of veterans benefits.

The amendment will improve the Federal Government's database on homeless veterans and will help homeless veterans know about programs which can help them address critical needs. It has been cleared on both sides.

I urge its adoption, and yield the floor.

Mr. MCCAIN. Mr. President, I rise to offer an amendment to the VA/HUD Appropriations bill for Fiscal Year 1999. The amendment will assist homeless veterans and seek to eliminate some of the suffering of those less fortunate Americans who served their country in the military.

This amendment will develop better methods for identifying veterans who utilize federally funded homeless shelters so that they can be educated about veteran benefits to which they are entitled, including Department of Veterans Affairs health care. A homeless shelter which receives federal funding would be required to inquire if a person, man or woman, entering the shelter is a veteran. This information would be used solely to assist in tracking the number of homeless veterans and providing counseling to the veteran regarding all available benefits, including job search, veterans preference rights, and medical benefits. Additionally, the Secretary of Veterans Affairs and the Secretary of Housing and Urban Development will coordinate these activities and specify a schedule for notifying the Department of Veteran Affairs of the status of these homeless veterans. It is the intent of this amendment to require homeless shelters to follow this procedures if they are to be eligible for additional Federal grants.

Today, there is no easy or accurate way to track the number of homeless veterans in the United States. I find this astonishing. We just celebrated Independence Day, and this country owes a great deal to the men and women who bore arms to keep America free. It is astonishing to me that there would be no mechanism or process set up to accurately track or keep national records on homeless veterans. The Department of Veterans Affairs estimates the number of homeless veterans to be between 275,000 and 500,000 over the course of a year. Conservatively, one out of every three individuals who is sleeping in a doorway, alley, or box in our cities and rural communities has worn a uniform and served our country. Mr. President, the time is right, right now, to give a helping hand.

Of the figures the Department of Veterans Affairs does acknowledge, homeless veterans are mostly male; about three percent are women. The vast majority are single; most come from poor, disadvantaged communities; forty percent suffer from mental illness; and half have substance abuse problems. More than seventy-five percent served our country for at least four years and Vietnam veterans account for more than forty percent of the total number estimated.

Mr. President, there are many complex factors affecting all homelessness: extreme shortage of affordable housing, poverty, high unemployment in big cities, and disability. A large number of displaced and at-risk veterans live with lingering effects of Post Traumatic Stress Disorder (PTSD) and substance abuse, compounded by a lack of family and social support networks.

I do not mean to be critical of the Secretary of Veterans Affairs or the Secretary of Housing and Urban Development in offering this amendment. To a certain degree the Department of Veterans Affairs is responsive in taking care of some homeless veterans. But the ones that are receiving critical medical treatment and veterans benefits are those who know that such programs exist. It is incumbent on our government to reach out to all homeless veterans. However, to do that, there must be a process in place.

Homeless veterans need a coordinated effort, between the Secretaries of Veterans Affairs and Housing and Urban Development, that provides secure housing and nutritional meals, essential physical health care, substance abuse aftercare and mental health counseling. They may need job assessment, training and placement assistance. To those that may argue that this is a new entitlement program, I

would say that these rights and benefits currently exist for veterans today. Why would we as a nation not do everything in our power to provide this help for those less fortunate veterans.

Mr. President, our veterans deserve no less. I hope my colleagues will support this amendment and support our veterans.

Ms. MIKULSKI. Mr. President, no one can speak for the veterans the way a former POW can. I wish to be associated with the remarks of Senator MCCAIN and move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Without objection, the amendment is agreed to.

The amendment (No. 3196) was agreed to.

Mr. BOND. I move to reconsider the vote.

Ms. MIKULSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3197

(Purpose: To provide funds for the Primary Care Providers Incentive Act, once authorized)

Mr. BOND. Mr. President, I send an amendment to the desk on behalf of myself, Senator MIKULSKI, and Senator ROCKEFELLER and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Missouri [Mr. BOND] for himself, Mr. ROCKEFELLER and Ms. MIKULSKI, proposes an amendment numbered 3197.

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

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

The amendment is as follows:

On page 7, line 18, add the following new provisos prior to the period: ''*: Provided further,* That of the funds made available under this heading, $10,000,000 shall be for implementation of the Primary Care Providers Incentive Act, contingent upon enactment of authorizing legislation''.

Mr. BOND. This amendment has been cleared on both sides and would provide $10 million within the VA medical appropriation for the Primary Care Providers Incentive Act contingent upon authorization.

Senators MIKULSKI and ROCKEFELLER have been working to create a program to facilitate the employment of primary care personnel at the VA, including an education debt reduction program which Senator MIKULSKI has long been interested in establishing. This program is intended to improve the recruitment and retention of primary care providers, a very important element in the service to the VA.

The Primary Care Providers Incentive Act seeks to update VA's educational assistance programs for prospective employees, particularly in areas where recruitment has been difficult. I urge the authorizing committees to act expeditiously on this important program.

I urge adoption of the amendment.

Mr. BOND. I yield to my distinguished colleague from Maryland.

Ms. MIKULSKI. Mr. President, this does attempt to recruit the very best and brightest in the field of primary care to the VA. I proposed the debt reduction program, a student debt reduction program, back in 1992.

Now, why do I approach this as debt reduction rather than scholarships? The scholarship program is very worthwhile, but there are many very talented people who have already graduated. They have a substantial student debt from studying either nursing or other primary care practices. What the $5 million would do would go towards reducing their student debt if they would enter VA services; they would get a year's worth of debt reduction for a year's worth of service.

This way, we know they have completed their training, they have passed their licensing requirement, they are as fit for duty as the veterans they will serve. That is why we approached it from that policy standpoint. It also joins with the outstanding efforts being made by Senator ROCKEFELLER to also develop other tools.

I concur in the amendment, and I urge its adoption and ask it be accepted unanimously.

Mr. ROCKEFELLER. Mr. President, I am delighted that $10 million to fund S. 2115, the Department of Veterans Affairs Primary Care Providers Incentive Act, has been provided through a managers' amendment to the VA/HUD appropriations bill. I thank the Chairman and Ranking Member of the VA/HUD Subcommittee, Senator BOND and Senator MIKULSKI, for their cooperation in making this possible.

The new scholarship and educational debt reduction programs that are contained in S. 2115 are designed to revitalize the Health Professionals Education Assistance Program at VA. This program was originally intended to help VA to recruit and retain health professionals, but it has atrophied in recent years, despite an ongoing demand for educational financial aid by health professionals employed by or interested in working at VA. This funding will help breathe new life into the educational assistance programs, and provide much needed incentives to improve recruitment and retention of primary care providers.

The VA health care system is in the midst of a major reorganization that is simultaneously reducing the current workforce and creating the need for more primary care health professionals. VHA's five-year strategic plan includes the activation and/or planning of nearly 400 community-based outpatient clinics, to be staffed by primary care health professionals. Yet hiring of these professionals and retraining of current employees, to prepare for these changes, has lagged behind the planning process. The Primary Care Providers Incentive Programs that will be funded through this amendment will motivate current employees to get training in new areas of need by providing scholarships, and assist in the recruitment of new primary care providers by helping to pay off student loans.

VA needs educational assistance programs such as these to effectively recruit and retain trained primary care health professionals. In VA hospitals and clinics, some of the most difficult positions to fill are those of nurse practitioners, physical therapists, and occupational therapists. In my own state of West Virginia, for example, at one of the VA hospitals, there has been a vacancy for an occupational therapist for over 12 years! Two of the VA hospitals have no physical therapists at all. This is simply unacceptable.

The plain fact is that starting salaries in the VA are not competitive with those in private practice. The Education Debt Reduction Program gives the VA a financial recruitment tool that will be an enormous help in making the VAMCs more competitive for these much-needed and highly skilled individuals. In fact, one of the most frequently asked questions by prospective new employees is whether or not VA has a debt reduction program. Clearly, this program will answer a critical need.

But improving recruitment is only half of the story. Retention of trained people is equally important. Funding the employee incentive scholarship program can help solve this very real problem. Eligibility is limited to current VA employees, providing a way for vulnerable individuals to protect themselves against future RIFs by acquiring training in the new areas of need. This will go a long way toward improving staff morale at the VA, which has been severely undermined in the last few years due to the necessary streamlining that resulted from significant budget cuts.

The educational assistance programs in S. 2115 are a valuable investment, enhancing morale of the VA health care providers in the short term, while building a workforce that matches VA's needs and improves veterans' health care in the long run. In the coming months, I will be working with my colleagues on the Senate Committee on Veterans' Affairs to authorize these worthwhile programs.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3197) was agreed to.

Mr. BOND. I move to reconsider the vote.

Ms. MIKULSKI. I move to lay it on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3198

(Purpose: To provide for the National Fallen Firefighters Foundation)

Mr. BOND. Mr. President, I send an amendment to the desk on behalf of Senators SARBANES and MIKULSKI and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Missouri [Mr. BOND] for Mr. SARBANES, for himself and Ms. MIKULSKI, proposes an amendment numbered 3198.

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

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

The amendment is as follows:

At the appropriate place, insert the following:

SEC. ___. NATIONAL FALLEN FIREFIGHTERS FOUNDATION.

(a) ESTABLISHMENT AND PURPOSES.—Section 202 of the National Fallen Firefighters Foundation Act (36 U.S.C. 5201) is amended—

(1) by striking paragraph (1) and inserting the following:

''(1) primarily—

''(A) to encourage, accept, and administer private gifts of property for the benefit of the National Fallen Firefighters' Memorial and the annual memorial service associated with the memorial; and

''(B) to, in coordination with the Federal Government and fire services (as that term is defined in section 4 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2203)), plan, direct, and manage the memorial service referred to in subparagraph (A)'';

(2) in paragraph (2), by inserting ''and Federal'' after ''non-Federal'';

(3) in paragraph (3)—

(A) by striking ''State and local'' and inserting ''Federal, State, and local''; and

(B) by striking ''and'' at the end;

(4) in paragraph (4), by striking the period at the end and inserting a semicolon; and

(5) by adding at the end the following:

''(5) to provide for a national program to assist families of fallen firefighters and fire departments in dealing with line-of-duty deaths of those firefighters; and

''(6) to promote national, State, and local initiatives to increase public awareness of fire and life safety in coordination with the United States Fire Administration.''

(b) BOARD OF DIRECTORS OF FOUNDATION.—Section 203(g)(1) of the National Fallen Firefighters Foundation Act (36 U.S.C. 5202(g)(1)) is amended by striking subparagraph (A) and inserting the following:

''(A) appointing officers or employees;''.

(c) ADMINISTRATIVE SERVICES AND SUPPORT.—Section 205 of the National Fallen Firefighters Foundation Act (36 U.S.C. 5204) is amended to read as follows:

''SEC. 205. ADMINISTRATIVE SERVICES AND SUPPORT.

''(a) IN GENERAL.—During the 10-year period beginning on the date of enactment of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999, the Administrator may—

''(1) provide personnel, facilities, and other required services for the operation of the Foundation; and

''(2) request and accept reimbursement for the assistance provided under paragraph (1).

''(b) REIMBURSEMENT.—Any amounts received under subsection (a)(2) as reimbursement for assistance shall be deposited in the Treasury to the credit of the appropriations then current and chargeable for the cost of providing that assistance.

''(c) PROHIBITION.—Notwithstanding any other provision of law, no Federal personnel or stationery may be used to solicit funding for the Foundation.''.

Mr. BOND. Mr. President, this amendment by Senator SARBANES and Senator MIKULSKI affects the National Fallen Firefighters Foundation, which is a federally chartered corporation dedicated to helping families of fallen firefighters in assisting State and local efforts to recognize firefighters who die in the line of duty.

The Federal Emergency Management Agency, U.S. Fire Administration, is a member of the foundation's board. Senator SARBANES sponsored the original legislation creating this foundation.

His amendment, along with Senator MIKULSKI, makes some technical changes to the law and eliminates the cap on staff. We understand it has been approved by FEMA. It has been cleared by the Commerce Committee. It would have no impact on spending and will ensure that the foundation is able to employ the staff it needs to operate.

I urge adoption of the amendment, and I yield to the sponsors.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I thank the chairman of the subcommittee for his support for this amendment.

The National Fallen Firefighters Foundation has done an absolutely outstanding job. I think it bears out the wisdom of the Congress in establishing it. The services they are now providing to the families of deceased firefighters are really exemplary. We have had many communications from spouses, from children, from parents, of how much the activities of the Fallen Firefighters Foundation mean to them.

They have enlisted very significant support from the private sector for their activities. These changes are technical in nature in order to enable the foundation to carry out its responsibilities with greater efficacy and greater efficiency.

I didn't want to let this opportunity pass without underscoring the tremendously fine work that is being done by the National Fallen Firefighters Foundation.

Ms. MIKULSKI. Mr. President, I concur with the remarks of my distinguished Senator. He has really done the heavy lifting on this policy issue. I want to thank him for doing this. I absolutely concur with the direction in which we are going. I think it will be an important memorial and a way to staff it properly.

I urge this amendment be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3198) was agreed to.

Mr. BOND. I move to reconsider the vote.

Ms. MIKULSKI. I move to lay it on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3199

(Purpose: To restore veterans tobacco-related benefits as in effect before the enactment of the Transportation Equity Act for the 21st Century)

Mr. WELLSTONE. Mr. President, I will get started on this amendment.

Mr. BOND. Might I ask for clarification? I ask the Senator which amendment he has that he wants to discuss.

Mr. WELLSTONE. This is the amendment that will restore benefits to veterans for smoking-related diseases.

Mr. President, this amendment which I now send to the desk is on behalf of myself, Senator MURRAY and Senator MCCAIN.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE] for himself, Mrs. MURRAY, and Mr. MCCAIN, proposes an amendment numbered 3199.

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

The PRESIDING OFFICER (Mr. ALLARD). Without objection, it is so ordered.

The amendment is as follows:

On page 16, between lines 19 and 20, insert the following:

SEC. 110. (a)(1) Section 1103 of title 38, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 11 of such title is amended by striking the item relating to section 1103.

(b) Upon the enactment of this Act—

(1) the Director of the Office of Management and Budget shall not make any estimate of changes in direct spending outlays under section 252(d) of the Balanced Budget and Emergency Deficit Control Act of 1985 for any fiscal year resulting from the enactment of this section; and

(2) the Chairmen of the Committees on the Budget shall not make any adjustments in direct spending outlays for purposes of the allocations, functional levels, and aggregates under title III of the Congressional Budget Act of 1974 for any fiscal year resulting from the enactment of this section.

Mr. WELLSTONE. Mr. President, my amendment would restore benefits to veterans with smoking-related diseases. How would we do that? It is simple. The TEA 21 highway program canceled the disability benefits that veterans would have received under existing rules and procedures, and it used that money instead to pay for more highway projects. My amendment would simply return the favor. It would repeal that offset from the highway bill.

Let me go through the procedural history of this to review how we got to where we are today. This offset first appeared in the President's 1999 budget request. The administration, I think, wildly overestimated the cost of benefits for smoking-related disabilities. But this money was then taken from veterans and it was used elsewhere. There is a tremendous amount of indignation in the veterans community over this, and there should be. Congress decided to play the same game. In the budget resolution they agreed to deny benefits to veterans and use the money

elsewhere just like it had been done by the administration. But the budget priorities were a little different. The savings were used for highway projects. That didn't happen on the Senate side, but by the time it came back from the House, that is what happened. That was the major reason I voted against that bill.

The appropriate place to repeal this offset and restore veterans' benefits would have been in the technical corrections to the TEA 21 highway bill. Senator ROCKEFELLER and I intended to offer an amendment which would have done just that, but we never got a chance because that amendment was folded into another conference report so we could never get an up-or-down vote. We all know that conference reports, as I just said, cannot be amended.

As I have said before on the floor, it is only right that we should have a clean vote on this issue. This is not only a question of veterans, it is a question of accountability. There is simply no excuse for hiding behind procedural gimmicks to avoid responsibility. Some have said we have already voted on this bill, or we have already voted on this question, but I don't think that is true.

Let me explain. The two votes we had on the budget resolution did not deal directly with this question. Senators got a chance to pretend they were for veterans and against the offset, knowing that 5 minutes later we could cast a vote in the opposite direction.

We had some camouflage about doing a study sometime in the future. But I think we all recognize it was only a study. And the vote on the IRS reform bill was not a clean up-or-down vote; it was only a procedural vote, a point of order. We need to have a clean vote up or down, no subterfuge, no trickery. It is not enough to take these benefits away from veterans. Congress will add insult to injury by not having a clean up-or-down vote on this question.

I think veterans should take a clear position on this issue, and that should go on the RECORD. Now, some may object to this amendment because it is legislation on an appropriations bill, or they may think that this appropriations bill is the wrong place to remedy this particular problem. Let me remind my colleagues that this offset was a jurisdictional raid to begin with. Transportation conferees stole the money without ever going through the Veterans' Affairs Committee. This was originally the Veterans' Affairs Committee. If we now repeal this offset through the Veterans' Affairs Committee, we will have to pay for it by taking even more money away from veterans. The highway bill took that money away. It was not taken away by the Veterans' Committee. Nobody wants to do that. Nobody wants to take more funding away from veterans.

There are a few misconceptions that I would like to clear up. First and foremost, compensation for veterans with smoking-related illnesses was not a new program. It was not an expansion of a program. It was a benefit to which disabled veterans were entitled to under existing law. Veterans who had become addicted to tobacco because of their service in the military had the right to apply for disability. The highway bill took that right away.

It is a very tough test that the veterans have to meet. Only 300 have passed it. These were not special rules, either. Those veterans had to meet the same legal and evidentiary requirements as for any other service-connected disability. They had to prove that their addiction began in the military service. They had to prove that their addiction continued without interruption. They had to prove that their addiction resulted in an illness. They had to prove that their addiction resulted in a disability.

There is another thing that ought to be pointed out tonight. We are not really talking about $17 billion here. Let's be clear about it. OMB first came up with that figure based on an estimate of 500,000 claims granted every year. But over the past 6 years, a grand total of only 8,000 veterans have applied, and only 300 of those claims have been granted. CBO came in with a lower, but still high, estimate of $10.5 billion. But the TEA 21 conferees needed more money, so they took advantage of the higher OMB number to pay for a huge increase in funding for highways.

The administration's cost projections are based on many, many unknowns. More importantly, OMB is assuming VA will grant 100 percent of all claims but, to date—listen to this, colleagues—VA has granted only 5 percent of the claims. The test veterans have to meet is simply much harder than OMB seems to think.

There are a number of other unknowns with the administration's methodology. On the percentage of veterans who currently smoke or are heavy smokers, VA experts made what we consider to be a questionable assumption that veterans who smoke more than 100 cigarettes in their lifetime would have the same disease rates as smokers; the percentage of veterans who may file claims for tobacco-related illnesses that are already receiving compensation for those or other conditions; the rate at which the VA can adjudicate these claims. There are lots of assumptions I would question.

Let me get right down to the very nitty-gritty of what this amendment is about. My first choice would be to keep the old rules for deciding disability claims—the ones we had before the TEA 21 highway bill. I don't see why Congress should go out of its way to deny disability benefits to veterans. Don't we have better places to look for spending offsets? Back in World War II, these veterans had free and discounted cigarettes included in their rations, and those packs didn't even have warning labels on them. Soldiers were encouraged to smoke to relieve the stress of military strain. And now some of them are suffering the consequences and they are not getting the compensation. That is what is so outrageous about what we have done, and that is what this amendment intends to correct.

The second choice—even if Congress does decide to deny these benefits, I find it hard to understand why this money should be taken away from veterans' programs. I believe, at the very least, it should stay with veterans. It is quite one thing to argue, look, though they deserve this compensation, they have to meet strict criteria to get this compensation. We handed cigarettes out like candy and we know veterans became addicted. They should have been entitled to this benefit. It is quite one thing to take away the compensation benefit, which we have done; it is adding insult to injury to not at least have to put that money, scored by OMB and CBO, back into veterans' health care.

That is why I come to the floor and I speak with so much indignation about this. That is why Senator MURRAY from Washington and Senator MCCAIN from Arizona join me in this amendment. If this offset proposal had been considered in the Veterans' Affairs Committee, as it should have been, I doubt that it would have seen the light of day. But if it had passed the committee, those savings would have remained within the committee's jurisdiction. Those savings would have been plowed right back into veterans' programs. That would have been my second choice.

So let me be clear again. The first choice: This compensation should have gone to the veterans. This is an injustice; it really is. Secondly, if we weren't going to do that, it should have stayed in the Veterans' Committee. I can tell you that committee would have at least made sure that this money would have been invested in veterans' health care. Only because it is late at night and because there are other colleagues who have amendments—trust me, I think I can talk, without notes, for 2 hours about the holes right now—gaping holes—in veterans' health care, in the financing and delivery of veterans' health care.

After all, we are running out of excuses for underfunding veterans' programs. Remember, for many years, Congress used deficit reduction as an excuse. That was the justification for flat-lining the VA budget in the 1997 budget deal. By the way, the flat-line budget is not going to work. It doesn't take into account inflation. It doesn't take into account all of the veterans now living to be 85—an ever-aging veterans population. It won't work. But now the deficit is gone and we can no longer claim that there are no offsets available. The first time an offset comes down the pike, and it is a real whopper, Congress immediately whisks it away to pay for other programs—

programs that obviously have a much higher priority.

I can't imagine how Congress can make its budget priorities any clearer. I have to tell you that if our priority is to live up to our commitment to veterans, then I believe we should have 100 votes for this amendment.

The VA-HUD appropriations bill does include a significant $222 million increase over the President's request in funding for veterans' health care. I thank my colleagues, the Senators from Missouri and Maryland, for their very fine leadership.

Let me bring something to my colleagues' attention. As the Veterans Affairs' Committee wrote in its letter to Appropriations, an increase of over $500 million is necessary to maintain the current level of services. My argument is that not only did we not give the veterans the compensation they would have gotten if we hadn't raided—really, what was their funding for their addiction, for their illness—but to add insult to injury, if we didn't do that, we should have at least put it into veterans' health care because we are not properly funding health care for veterans in this country. Before the budget deal, we just simply did not take into account the inflation that is taking place. The budget is not enough.

Finally, let me be clear about what this amendment will do and what it will not do.

First of all, this amendment does not cancel or deny any transportation projects. Those projects are already in law. This amendment would not affect them in any way.

Second, this amendment that I have introduced with Senator MURRAY and Senator MCCAIN would not trigger a budget sequester. It includes the same protection against sequestration, the same budget gimmickry that was included in the TEA 21 bill.

It may be argued that this amendment would be using the surplus to pay for veterans' benefits. I would argue that the highway bill was spending the surplus because it was using an unreasonably high estimate for this offset. That is going to happen whether or not we repeal that offset.

But to the extent we do restore previous law on veterans' disability benefits and waive the Budget Act—I am asking colleagues to waive the Budget Act—the cost is not going to be anywhere near $17 billion. I want to be clear about that.

In the summer of 1997, the VA said it wouldn't be able to process more than a couple billion dollars worth of claims over 5 years.

Mr. President, and colleagues, let me just summarize. I have decided to really try to be brief. There is a lot that I feel strongly about, and there is a lot that I would like to talk about. But I think my colleagues from Missouri and Maryland were gracious enough to let me come to the floor with this amendment and get to work on it.

I summarize this way. This amendment would restore benefits to veterans with smoking-related diseases. This amendment that I introduce on behalf of myself and Senator MURRAY and Senator MCCAIN does what we should have done—to have provided this funding for compensation to go to veterans for smoking-related disease. We did not do that through a whole lot of gimmickry and a whole lot of zigs and zags. We took that funding away from veterans.

My second choice would have been to have at least invested this funding into veterans' health care.

We have got so many needs for those that are 85, and elderly veterans; so many needs for veterans that are walking around and struggling with PTSD; so many needs for more drop-in centers; so many needs to fill the gaps in our current VA health care system. And we didn't put the money into the veterans' health care.

Then, finally, I want to make real clear what this will do and what it will not do.

I don't want anybody to be able to say that we are now going to cancel any transportation projects. That is not what this amendment does.

I don't want anybody to say it is going to trigger a budget sequester. It has the same protection that we had against sequestration.

I don't want anybody to argue that we will waive a budget order, that we will have to go into a surplus. We have a huge surplus. We put the surplus into the highways. Now, I am just saying take it back, even though you don't take it from the highways, because you have already funded that. You should at least take that money that belongs to the veterans that should have gone to them directly for compensation.

I don't think we can avoid an up-or-down vote on this any longer. We should have a clear up-or-down vote. We should all be accountable. I feel very strongly about this, and I hope that I will receive very strong support for this amendment.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I think the Senator from Alaska has another amendment. I was going to say that I believe the Senator from New Mexico, the chairman of the Budget Committee, will raise a point of order tomorrow. As the Senator from Minnesota knows, the Senator from Maryland and I have supported his position. There will be a Budget Act point of order.

But I ask for the yeas and nays on Senator WELLSTONE's amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Ms. MIKULSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, first of all, I would like to thank Senator WELLSTONE for his cooperation in this debate, and for his willingness to stay on the floor. I also appreciate his remarks. I know the passion that the Senator from Minnesota has on behalf of veterans. He spoke in behalf of atomic veterans, and in behalf of a group of veterans in his own State that have been ignored. He has spoken for the homeless, for the mentally ill veterans, and also for the need for long-term care for the veterans. I thank him for that.

Mr. President, when we debated both the highway bill and the budget bill, I supported the sense-of-the-Senate resolution that we not raid the veterans' medical care. Thence, when we voted on the highway bill, I voted for final passage, but was very clear saying we should not fix America's potholes on the backs of America's veterans and their needs for health care, many of whom bear the permanent wounds of war.

I thank the Senator for raising this issue again. I want the Senator from Minnesota to know that I support his policy position on this. I, too, believe that promises made should be promises kept to the veterans, and we should find other ways of funding that highway bill.

I look forward to further work with him on this topic.

Mr. MCCAIN. Mr. President, I rise to offer my strong support, as an original cosponsor of the amendment offered by Mr. WELLSTONE to the VA/HUD Appropriations bill for fiscal year 1999 which will rightfully transfer approximately $10.5 billion back to the Department of Veterans Affairs for veterans programs. I understand from the managers of the bill that the vote on this critical amendment will not occur until tomorrow. I would have voted for this provision if I was not called out of town on a prior commitment. Furthermore, I urge my colleagues to show their support for veterans and vote for this measure.

On July 8, 1998, I submitted for the RECORD a statement regarding veterans' health care activities for tobacco-related illnesses and disabilities. At that time, I had every intention to offer an amendment to the VA/HUD Appropriations bill that would restore the $10.5 billion in funding that was so egregiously and eagerly taken from our nation's veterans to fund pork-laden highway programs in the Intermodal Surface Transportation Efficiency Act of 1998 (ISTEA). Unfortunately, there was simply no possibility that this amendment would be adopted, simply because of the inflexibility of the Appropriations Committee's allocation of funds between the Transportation and VA/HUD Committees.

Because of the arcane rules of the Senate, I and my cosponsors are precluded from righting this profound wrong that has been perpetrated against those who have served and sacrificed for our country. I am not sure that our efforts will be more successful this evening, but I do know, that it is

the right thing to do. This issue is far from dead.

It is important, I believe, that my colleagues fully understand the facts regarding the funding shortfall for veterans health care and compensation for tobacco related diseases.

First, the Department of Veterans Affairs critical funding shortfall is a result of President Clinton's legislative proposal to Congress to disallow service-connected disability or death benefits based on tobacco-related diseases arising after discharge from the military. Congress, eager to fund pork-laden highway programs, then transferred nearly $10.5 billion to the Intermodal Surface Transportation Efficiency Act of 1998 (ISTEA), H.R. 2400, earlier this year. This egregious act was fully supported by President Clinton.

Second, on April 2, 1998 the Senate voted for an amendment sponsored by Senators DOMENICI, LOTT, and CRAIG on the Balanced Budget Act which transferred approximately $10.5 billion over five years from the Department of Veterans Affairs for veterans' tobacco-related diseases to the ISTEA bill for transportation related projects. I voted for this amendment, in part, because I believed that the tobacco companies, rather than the taxpayers, should bear the burden for tobacco-related diseases caused partially by smoking and using other tobacco products while they were in military service. Military service did not force servicemembers to smoke, but I acknowledge that for morale reasons, the services made cigarettes available for free or at inexpensive prices. The services also give servicemembers condoms and birth control pills at no cost to military personnel, but that does not mean that they want our men and women in uniform to be promiscuous.

Third, on the tobacco bill, I sponsored legislation that would provide not less than $600 million per year to the Department of Veterans' Affairs for veterans' health care activities for tobacco-related illnesses and disability and directed the Secretary of Veterans' Affairs to assist such veterans as is appropriate. The amendment would have provided a minimum of $3 billion over five years for those veterans that are afflicted with tobacco-related illnesses and disability. Additionally, the amendment would have provided smoking cessation care to veterans from various programs established under the tobacco bill.

Now that the tobacco bill has been returned to the Commerce, Science, and Transportation Committee, I feel more compelled to rectify this situation. As a conferee on the ISTEA bill, I refused to support and sign the ISTEA Conference Report. I opposed the ISTEA Conference Report for a number of reasons, particularly because of my objections to shifting critical veterans funding to support pork barrel spending in this massive highway bill. It seems that the Congress has no hesitation in breaking budget agreements, when it suits their own purposes to do so, to spend far more on transportation than agreed to in the balanced budget plan. What's worse, it seems that the Congress has no problem with robbing from veterans, whose programs have been seriously under funded for years, to pay for this luxury.

Furthermore, Mr. President, the facts are clear with respect to tobacco related health care costs and the impact on veterans:

Tobacco-related diseases, for example, include cancers of the lip, oral cavity, and pharynx; esophagus; pancreas; larynx; lung; bladder; kidney; coronary heart disease; cerebrovascular disease (stroke); various circulatory diseases; and chronic bronchitis.

The Department of Veteran Affairs' (VA) fiscal year 1997 expenditures for health care for veterans with tobacco-related illnesses are estimated to be $2.6–$3.6 billion.

In fiscal year 1997, the VA treated 405,000 patients with at least one tobacco-related illness.

In fiscal year 1997, the VAs' average cost per patient with at least one tobacco-related illness was $8,800.

In fiscal year 1997, patients with tobacco-related illnesses accounted for over 6.5 million visits to the VAs' health care facilities.

The projected additional health care costs for tobacco related-illnesses for the VA are estimated to be $2.9 billion over the next five years.

The projected additional health care costs for tobacco related-illnesses for the VA are estimated to be negligible for fiscal year 1999.

The projected cost for tobacco claims in fiscal year 1999 is about $500 million based on the number of claims that could be processed. Processing time for claims is expected to increase with an influx of tobacco claims.

Our nation's veterans should not be excluded from payments by tobacco companies for health care costs associated with tobacco-related diseases. The failure to address the tobacco-related health care needs of our men and women who faithfully served their country in uniform would be wrong. Congress cannot continue to rob from veterans, whose programs have been seriously under funded for years, to pay for these and other special interest projects.

Mr. President, our veterans deserve no less. I hope my colleagues will support this amendment and support our veterans. Thank you.

Mr. WELLSTONE. Mr. President, if there is more comment on this amendment, I will wait. I ask my colleague from Alaska whether he intends to move on to another amendment, or comment on this amendment.

Mr. MURKOWSKI. Mr. President, in response to my friend, it would be my intent to ask unanimous consent that the amendment be set aside so I can offer mine.

Mr. WELLSTONE. Mr. President, other colleagues may want to speak to that. I will take 2 minutes, I say to all of my colleagues.

I would like to thank the Senator from Maryland for her very kind remarks. I have to say that I will not go now through the technical part of what happened. I am telling you that this was a real injustice. We sort of went on record saying we wouldn't do this, and we have done it. We shouldn't have. This amendment restores that funding to where it should go.

I wish to say to my colleagues that we have a huge surplus. We really essentially took some of that money and put it in the highways. We shouldn't have. We got the highways. But we left the veterans out in the cold. They know that. All of these veterans organizations know that. I will say this tomorrow again. All these veterans know that. Senator MURRAY, Senator MCCAIN, and many of my colleagues know it as well.

I hope that there will be very strong support for this, Democrats and Republicans alike, because, again, the money should have gone to deal with the problem, to deal with veterans who really are struggling with illness based upon addiction to tobacco, and, if not, it should have gone into the veterans' health care. It should not have gone, as my colleague from Maryland said, to pay for additional highways, which is what happened.

So let's correct a wrong. Please. Let's have a very strong vote on this tomorrow morning.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

AMENDMENT NO. 3200

Mr. MURKOWSKI. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside, and the clerk will report.

The legislative clerk read as follows:

The Senator from Alaska (Mr. MURKOWSKI) proposes an amendment numbered 3200.

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

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

The amendment is as follows:

SEC. . VIETNAM VETERANS ALLOTMENT.

The Alaskan Native Claims Settlement Act (43 U.S.C. 1600, et seq.) is amended by adding at the end the following:

OPEN SEASON FOR CERTAIN NATIVE ALASKAN VETERANS FOR ALLOTMENTS

SEC. 41. (a) IN GENERAL.—(1) During the eighteen month period following promulgation of implementing rules pursuant to paragraph (6), a person described in subsection (b) shall be eligible for an allotment of not more than 160 acres of land under the Act of May 17, 1906 (chapter 2469; 34 Stat. 197), as such Act was in effect before December 18, 1971.

(2) Allotments selected under this section shall not be from existing native or non-native campsites, except for campsites used primarily by the person selecting the allotment.

(3) Only federal lands shall be eligible for selection and conveyance under this Act.

(4) All conveyances shall be subject to valid existing rights, including any right of

the United States to income derived, directly or indirectly, from a lease, license, permit, right-of-way or easement.

(5) All state selected lands that have not yet been conveyed shall be ineligible for selection under this section.

(6) No later than 18 months after enactment of this section, the Secretary of the Interior shall promulgate, after consultation with Alaska Natives groups, rules to carry out this section.

(7) The Secretary of the Interior may covey alternative federal lands, including lands within a Conservation System Unit, to a person entitled to an allotment located within a Conservation System Unit if—

(A) the Secretary determines that the allotment would be incompatible with the purposes for which the Conservation System Unit was established.

(B) the person entitled to the allotment agrees in writing to the alternative conveyance; and

(C) the alternative lands are of equal acreage to the allotment.

(b) ELIGIBLE INDIVIDUALS.—(1) A person is eligible under subsection (a) if that person would have been eligible under the Act of May 17, 1906 (chapter 2469; 34 Stat. 197), as that Act was in effect before December 18, 1971, and that person is a veteran who served during the period between January 1, 1968 and December 31, 1971.

(c) STUDY.—The Secretary of the Interior shall—

(1) conduct a study to identify and assess the circumstances of veterans of the Vietnam era who were eligible for allotments under the Act of May 17, 1906 but who did not apply under that Act and are not eligible under this section; and

(2) within one year of enactment of this section, issue a written report with recommendations to the Committee on Appropriations and the Committee on Energy and Natural Resources in the Senate and the Committee on Appropriations and the Committee on Resources in the House of Representatives.

(d) DEFINITIONS.—For the purpose of this section, the terms 'veteran' and ''Vietnam era'' have the meanings given those terms by paragraphs (2) and (29) respectively, of section 101 of title 38, United States Code.

Mr. MURKOWSKI. Mr. President, I think we have given the amendment to both of the floor leaders.

The simple reality of this amendment is that this affects a group of native Alaskans—Aleut, Eskimo, and Indian—who served in uniform during the Korean or Vietnam war, and as a consequence of that service were unavailable and not in the State at the time when they would have had the opportunity to take advantage of an individual allotment, which was authorized under the 1906 Alaska Native Allotment Act, allowing the collection of up to 160 acres of nonmineral, vacant, unappropriated, unreserved land in Alaska to any qualified Alaska Native head of a household.

What happened during that timeframe between 1968 and 1972, which is the 3 years that are explicitly addressed in this amendment, is that the authorization for the selection ended. So what we have here is the passage of the Alaska Native Claims Settlement Act in 1971 that terminated this selection opportunity, and there were a number of Alaska Natives serving in the military who did not have an opportunity to take advantage of the 160 acres that were due them under the 1906 law.

Now, Mr. President, it is fair to say that we do not have a scoring on this. We hope to have one tomorrow. It is fair to say also that scoring would be very insignificant because this is land where they traditionally have fished, they have hunted, they have subsisted, and it is not land in areas of sensitivity relative to parks, wilderness areas, and wildlife areas. In all candor, it is also appropriate to say that the Department of Interior will be in opposition to it from the standpoint of any public land transferring to any individuals, even the indigenous people who were given by congressional action the right to the selection of this land.

Now, it is also fair to reflect on the fact that Alaska contains about 365 million acres. We are talking about authorization for those valid recipients of land in an amount less than 300,000 acres. So it would be equivalent to dropping, if you will, a tack in the State of Virginia in relationship to the footprint.

I recognize the effect that anything of significant scoring would have on this bill. We do not want to jeopardize the bill. I have talked to the floor manager. It is my hope that we can get an accurate scoring that reflects reality. It is also my hope that we recognize this truly belongs in the category of veterans issues. I am on the Veterans' Committee. I have been on that committee for 18 years. These veterans simply were unable to take advantage of the opportunity because they were serving in the Armed Forces.

So the amendment would restore the right of the Vietnam era Alaskan Native veterans to apply for these allotments as a right that they were denied only because they were serving in the uniform of our Nation.

The Amendment calls for the same standards that were in effect under the Allotment Act to be used to evaluate the new applications. Additionally, it calls for DOI to develop rules to implement this bill in consultation with Alaska Natives.

This amendment allows the Department of the Interior ample time to promulgate regulations needed to carry out the provisions of this amendment.

The amendment protects the current valid rights of the Federal Government.

The amendment also addresses the concerns of the administration about possible Veteran allotments within Conservation System Units.

If an Allotment is within a Conservation System Unit The Secretary of the Interior is authorized to offer other lands to the allottee.

I think this is a fair solution as these veterans had rights to these lands long before they were ever made part of a CSU.

This amendment is appropriate on this bill as it addresses a specific problem incurred by Veterans of the Vietnam war who are Alaska Natives and were denied a privilege offered other Alaska Natives, for the sole reason that they were overseas defending our freedom.

I know the administration would like to see this amendment ''tightened'' to include a smaller class of veterans and I think that is plain wrong.

Where our veterans are concerned I think we should always err on the side of greater participation as without every one of them we would not be here today as free people.

On a per capita basis, Alaska Natives represent the largest group of minorities serving in active duty in the U.S. Armed Forces.

It is my intention to ask for the yeas and nays tomorrow sometime, but I hope to have the opportunity to have further discussion with the floor managers on the scoring unless they have specific questions for me at this time.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, the Senator from Alaska presents a very compelling case. As a Senator interested in that area, I can see the importance of the case he makes. The problem is, this deals with a subject matter over which this subcommittee does not have primary jurisdiction, and therefore I would have to say, No. 1, I cannot comment on or respond properly to the views of the appropriate appropriations subcommittee, nor could I respond to the questions that might be raised by the authorizing committee.

The Senator has advised us that we do not have the scoring from CBO. He has assured us it will be minimal. Frankly, this bill is very close to our limits, and if the scoring turns out to push us over the allocations, we will have to raise a Budget Act point of order.

So I urge the Senator to talk with the chairman of the Appropriations Committee—the chairman and ranking member, and the chairman and ranking member of the appropriations subcommittee, and seek their counsel on it. We will be happy to have a vote on it or to deal with it tomorrow. While it does involve veterans, the subject matter is not one which is within the expertise of this subcommittee, and we do need to hear from the other appropriations subcommittees and the authorizing committee on it.

Mr. MURKOWSKI. If I may respond to the floor manager, I appreciate his understanding. I don't want to jeopardize activities of the committee. If there is a significant scoring, I will be willing to withdraw the amendment. But if it is a significant scoring, I would appreciate your consideration. If I may leave it at that, I would reserve the right—it would be my intention to have it listed on the pending amendments. I will ask for the yeas and nays.

Mr. BOND. I would be happy to join in asking for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MURKOWSKI. I will address it in the morning. I thank the floor managers, the gentlelady from Maryland, and the gentleman from Missouri.

I yield the floor.

Ms. MIKULSKI. Mr. President, I concur in the remarks of Chairman BOND. It sounds as if it is a worthwhile endeavor, a complex issue, and not necessarily appropriate to our subcommittee. So we await further information in the morning to see what are the appropriate next steps. I concur that the Senator always has a right to ask for a vote on his amendment. So we will just wait to hear what we hear on the scoring and what the Interior subcommittee chairman and ranking member say.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

AMENDMENT NO. 3201

(Purpose: To provide class size demonstration grants)

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

The PRESIDING OFFICER. Without objection, the pending amendment is laid aside. The clerk will report.

The legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD] proposes an amendment numbered 3201.

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

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

The amendment is as follows:

On page 93, between lines 18 and 19, insert the following:

SEC.___. CLASS SIZE DEMONSTRATION GRANTS.

Subpart 3 of part D of title V of the Higher Education Act of 1965 (20 U.S.C. 1109 et seq.) is amended to read as follows:

"Subpart 3—Class Size Demonstration Grants

"SEC. 561. PURPOSE.

''It is the purpose of this subpart to provide grants to State educational agencies to enable such agencies to determine the benefits, in various school settings, of reducing class size on the educational performance of students and on classroom management and organization.

"SEC. 562. PROGRAM AUTHORIZED.

''(a) PROGRAM AUTHORIZED.—

''(1) IN GENERAL.—The Secretary shall award grants, on a competitive basis, to State educational agencies to pay the Federal share of the costs of conducting demonstration projects that demonstrate methods of reducing class size that may provide information meaningful to other State educational agencies and local educational agencies.

''(2) FEDERAL SHARE.—The Federal share shall be 50 percent.

''(b) RESERVATION.—The Secretary may reserve not more than 5 percent of the amount appropriated under section 565A for each fiscal year to carry out the activities described in section 565.

''(c) SELECTION CRITERIA.—The Secretary shall make grants to State educational agencies on the basis of—

''(1) the need and the ability of a State educational agency to reduce the class size of an elementary school or secondary school served by such agency;

''(2) the ability of a State educational agency to furnish the non-Federal share of the costs of the demonstration project for which assistance is sought;

''(3) the ability of a State educational agency to continue the project for which assistance is sought after the termination of Federal financial assistance under this subpart; and

''(4) the degree to which a State educational agency demonstrates in the application submitted pursuant to section 564 consultation in program implementation and design with parents, teachers, school administrators, and local teacher organizations, where applicable.

''(d) PRIORITY.—In awarding grants under this subpart, the Secretary shall give priority to demonstration projects that involve at-risk students in the earliest grades, including educationally or economically disadvantaged students, students with disabilities, and limited English proficient students.

''(e) GRANTS MUST SUPPLEMENT OTHER FUNDS.—A State educational agency shall use the Federal funds received under this subpart to supplement and not supplant other Federal, State, and local funds available to the State educational agency to carry out the purpose of this subpart.

"SEC. 563. PROGRAM REQUIREMENTS.

''(a) ANNUAL COMPETITION.—In each fiscal year, the Secretary shall announce the factors to be examined in a demonstration project assisted under this subpart. Such factors may include—

''(1) the magnitude of the reduction in class size to be achieved;

''(2) the level of education in which the demonstration projects shall occur;

''(3) the form of the instructional strategy to be demonstrated; and

''(4) the duration of the project.

''(b) RANDOM TECHNIQUES AND APPROPRIATE COMPARISON GROUPS.—Demonstration projects assisted under this subpart shall be designed to utilize randomized techniques or appropriate comparison groups.

"SEC. 564. APPLICATION.

''(a) IN GENERAL.—In order to receive a grant under this subpart, a State educational agency shall submit an application to the Secretary that is responsive to the announcement described in section 563(a), at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

''(b) DURATION.—The Secretary shall encourage State educational agencies to submit applications under this subpart for a period of 5 years.

''(c) CONTENTS.—Each application submitted under subsection (a) shall include—

''(1) a description of the objectives to be attained with the grant funds and the manner in which the grant funds will be used to reduce class size;

''(2) a description of the steps to be taken to achieve target class sizes, including, where applicable, the acquisition of additional teaching personnel and classroom space;

''(3) a statement of the methods for the collection of data necessary for the evaluation of the impact of class size reduction programs on student achievement;

''(4) an assurance that the State educational agency will pay, from non-Federal sources, the non-Federal share of the costs of the demonstration project for which assistance is sought; and

''(5) such additional assurances as the Secretary may reasonably require.

''(d) SUFFICIENT SIZE AND SCOPE REQUIRED.—The Secretary shall award grants under this subpart only to State educational agencies submitting applications which described projects of sufficient size and scope to contribute to carrying out the purpose of this subpart.

"SEC. 565. EVALUATION AND DISSEMINATION.

''(a) NATIONAL EVALUATION.—The Secretary shall conduct a national evaluation of the demonstration projects assisted under this subpart to determine the costs incurred in achieving the reduction in class size and the effects of the reductions on results, such as student performance in the affected subjects or grades, attendance, discipline, classroom organization, management, and teacher satisfaction and retention.

''(b) COOPERATION.—Each State educational agency receiving a grant under this subpart shall cooperate in the national evaluation described in subsection (a) and shall provide such information to the Secretary as the Secretary may reasonably require.

''(c) REPORTS.—The Secretary shall report to Congress on the results of the evaluation conducted under subsection (a).

''(d) DISSEMINATION.—The Secretary shall widely disseminate information about the results of the class size demonstration projects assisted under this subpart.

"SEC. 565A. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this subpart $15,000,000 for fiscal year 1999 and each of the 4 succeeding fiscal years.''.

SEC. ___. PROHIBITION REGARDING RESEARCH AND DEVELOPMENT BY NASA RELATING TO SUPERSONIC OR SUBSONIC AIRCRAFT.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Administrator of the National Aeronautics and Space Administration may not carry out research and development activities relating to supersonic aircraft or subsonic aircraft.

(b) DEFICIT REDUCTION.—Upon the date of enactment of this Act, savings resulting from amounts reduced pursuant to the application of subsection (a) shall be subject to the following provisions:

(1) BUDGET AUTHORITY AND SPENDING LIMITS.—The Office of Management and Budget shall—

(A) reflect the reduction in discretionary budget authority that results from the application of subsection (a) in the estimates required by section 251(a)(7) of the Balanced Budget and Emergency Deficit Control Act of 1985 in accordance with that Act, including an estimate of the reduction of the budget authority for each outyear; and

(B) include a reduction to the discretionary spending limits for budget authority and outlays in accordance with the Balanced Budget and Emergency Deficit Control Act of 1985 for each applicable fiscal year set forth in section 251(c) of that Act by amounts equal to the amounts for each fiscal year estimated pursuant to subparagraph (A).

(2) ADJUSTMENTS TO SPENDING LIMITS.—The Office of Management and Budget shall make the reduction required by paragraph (1)(B) as part of the next sequester report required by section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985.

(3) CBO ESTIMATES.—As soon as practicable after the date of enactment of this Act, the Director of the Congressional Budget Office shall provide to the Committee on the Budget of the House of Representatives and the Committee on the Budget of the Senate an estimate of the reduction of the budget authority and the reduction in outlays flowing from such reduction of budget authority for each outyear.

On page 78, line 24, strike ''$1,305,000,000'' and insert ''$866,000,000''.

Mr. FEINGOLD. Mr. President, just briefly, my amendment accomplishes three things: It provides States some modest funding to promote one of the single most effective reforms we can make to improve the education of our children, and that is smaller class size; it eliminates a notorious piece of corporate welfare in the budget; and it reduces our budget deficit by $2.1 billion over the next 5 years.

The amendment authorizes a limited number of innovative demonstration grant programs to assist States in their efforts to reduce public school class size and to improve learning in the earliest grades.

My State of Wisconsin has been a leader in the effort to reduce public school class size, and this amendment is modeled after Wisconsin's successful pilot program, the so-called Student Achievement Guaranty in Education, or the SAGE Program.

Mr. President, we have been very proud of this program. It has worked well, and I think a model for it on the national level would be extremely helpful.

The amendment is fully offset by cuts in a wasteful and unnecessary Federal subsidy that benefits research and development for the world's largest aircraft manufacturer. We can fully fund this important SAGE Program and still reduce the Federal budget by more than $2.1 billion over 5 years if this amendment is adopted.

As we near the end of the 105th Congress, I fear that Congress will somehow go home having done nothing to reduce public school class size. My amendment approaches this issue without expanding the deficit and it eliminates an expensive corporate subsidy.

Briefly, passage of this amendment will save $2.2 billion by dealing with certain research efforts that have the explicit goal of maintaining the company's market share in the global aircraft market.

For the information of my colleagues, this company has reported profits in excess of $5 billion over the last 5 years, and I don't think there is any justification for this kind of subsidy. It flies in the face of free-market economics and it wastes billions of our constituents' tax dollars.

My distinguished colleague, the senior Senator from Texas, in speaking out against this subsidy, said, ''The market system is much more efficient at creating jobs and opportunities than the Government is.''

So I urge my colleagues to take his heed and eliminate this form of corporate welfare. As I noted before, we would produce in our amendment a $2.1 billion net deficit reduction over the next 5 years. To some of us, we may sometimes feel we are belaboring the obvious, but I feel constrained to point out that we still do have a deficit in our Federal budget and that this amendment will be very helpful in that regard.

I thank the Senator from Oklahoma and my friend, the senior Senator from Wisconsin, for deferring to me briefly so I could have the opportunity to speak about this amendment and offer it. In light of the understanding that the Senate wants to move forward on this bill, let me, in a moment, withdraw my amendment, but indicate I hope to offer it on another appropriations bill later this year.

With that, Mr. President, I withdraw the amendment and yield the floor.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

The amendment (No. 3201) was withdrawn.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I express my appreciation to the Senator from Wisconsin. We are now ready for the amendment by the Senator from Oklahoma. The Senator from Rhode Island has an amendment to go after this one. I ask the Chair to recognize him after this amendment has been dealt with.

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

The Senator from Oklahoma.

AMENDMENT NO. 3202

(Purpose: To amend the bill with respect to single family maximum mortgage amounts, and for other purposes)

Mr. NICKLES. Mr. President, on behalf of myself and Senators KOHL, MACK, ALLARD, FEINGOLD, DEWINE and FAIRCLOTH, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES], for himself, Mr. KOHL, Mr. MACK, Mr. ALLARD, Mr. FEINGOLD, Mr. DEWINE and Mr. FAIRCLOTH, proposes an amendment numbered 3202.

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

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

The amendment is as follows:

On page 53, strike lines 9 through 25 and insert the following:

SEC. 219. INCREASE IN FHA SINGLE FAMILY MAXIMUM MORTGAGE AMOUNTS AND GNMA GUARANTY FEE.

(a) FHA SINGLE FAMILY MAXIMUM MORTGAGE AMOUNTS.—Section 203(b)(2)(A) of the National Housing Act (12 U.S.C. 1709(b)(2)(A)) is amended by striking ''38 percent'' and inserting ''48 percent''.

(b) GNMA GUARANTY FEE.—Ssection 306(g)(3)(A) of the National Housing Act (12 U.S.C. 1721(g)(3)(A)) is amended by striking ''No Fee or charge'' and all that follows through ''or collected'' and inserting ''A fee or charge in an amount equal to not less than 12 basis points shall be assessed and collected''.

Mr. NICKLES. Mr. President, before I describe the amendment, first I would like to just express my appreciation to my colleagues, Senator BOND from Missouri and Senator MIKULSKI from Maryland. I have the pleasure of serving with them on the Appropriations Committee, on this subcommittee, and I enjoyed the work on this subcommittee. This subcommittee is a hard committee because it deals with so many agencies. It is not easy. It is not just one agency. The bill is commonly VA-HUD and other agencies. It includes EPA, the Science Foundation, NASA and so on. So it requires an enormous amount of work by staff and by Senators to try to stay on top of all the demands, and the multitude of requests by the agencies and Senators who are involved with them. So I compliment them for their work.

Mr. President, I agree with most of the things they have in their bill, although I have some questions about the cost of the bill, but I will may raise that at another time. I notice in the committee report the bill has about a $5 billion increase in requests compared to last year. I do not know of any other appropriations bill that has that kind of increase. I am going to have to check into that, but that is not what I raise tonight. I may vote against the bill because of the $5 billion compared to last year's level. I am concerned about that, but I am going to do my homework on that.

The reason I am rising to introduce this amendment is because in the committee bill it increases the FHA loan limits and increases them rather significantly. For those who are not familiar with this, FHA, the Federal Housing Administration, insures mortgage loans. These mortgages are 100 percent guaranteed by the Federal Government. It was started many, many years ago, and its purpose was to expand housing in areas where people maybe could not afford it. It had a noble purpose. We had a housing shortage. We had people who could not get money, could not borrow money. The private sector markets were not there and money was not available to assist people to buy a home.

One of the basic, fundamental principles we have in this country is we want people to be able to buy their own homes. We want people to be able to own their own homes, not just rent, we want people to own their own homes. So the Federal Government assisted in this program with the Federal Housing Administration.

But we have limits. We have guiding principles that say, if we are going to have the Federal Government insure home loans to individuals, they basically be limited to about 95 percent of the median home price for that area. It kind of makes sense. You should not be able to get 100 percent Federal insurance for home loans far in excess of the value of homes in the area. That does not make sense.

There is in effect, base amounts or a bottom amount so every county across the country would not fall below a particular amount. And then there is also a cap. We ought to have some kind of limit. We should not have the Federal Government insuring loans very expensive homes. I see my colleague from Rhode Island. There are some areas of Rhode Island, at least one area there,

where there are probably all million-dollar homes.

Mr. REED. That is in Massachusetts.

Mr. NICKLES. Maybe that is in Massachusetts, I am not sure. But the Federal Government should not be insuring those million dollar homes. So we have a maximum limit to make sure the federal government doesn't insure million dollar homes. The bottom loan limit is $86,000 this year. Last year, it was $81,000, so it has increased. The top limit it is $170,000. So you have limits set at 95 percent of the median value of homes, but everywhere in this country is going to have at least this base limit, $86,000. Right now, current law, you can get a home Loan, insured 100 percent by the Federal Government, guaranteed by the taxpayers, in an amount equal to $86,000. In some areas, the higher price home areas, up to $170,000.

The committee increased both of those limits. They increased the base amount from $86,000 to $109,000. And they also increased the top limit from $170,000 to $197,000—almost $200,000. Our amendment strikes the increase in the top limit.

I hope my colleagues would say, wait a minute, $170,000 is enough for the Federal Government to insure. Shall we really go up to $200,000? Last year, it was $160,000, so, because it is tied to a percentage of the Freddie Mac conforming loan limit, it already goes up from last year's level in the top areas, from $160,000 it goes to $170,000. Isn't that enough? But, no, the committee said let's go on up to almost $200,000.

The purpose of this program was to assist low-income people, or people who could not get loans to be able to get a loan with a Federal guarantee; a loan that is guaranteed by taxpayers 100 percent. But now the committee is going all the way up to $200,000? I think that is too high. I do not think that was the purpose of the program.

The Secretary of Housing called me two or three times and said, ''Can't we do this?'' I disagreed with him. He wanted to do it on the highway bill, and I respect the Secretary of Housing, but I said, ''No. That is bad public policy.'' They tried to get this put in the highway bill and I disagreed with him and we were successful in stopping it. Now the VA-HUD appropriations subcommittee is doing it.

Our amendment does not touch the bottom increase. I might tell my colleagues, I think we should. I did not want to increase the bottom amount, but I also know how to count votes. I didn't have the votes to prevent the increase in the bottom limit. I hope we will have the votes to not increase the top limit. I hope we will keep the Federal Housing Administration targeted to lower income individuals. You have to have a pretty good income in order to be able to afford a $200,000 mortgage. Is that the purpose of the Federal Government, to insure loans and mortgages up to $200,000? I don't think so. I don't think that is why FHA was created.

What brought us here? The Secretary of Housing wants to increase the loan limits. I guess there was a Housing Affairs letter, an internal industry newsletter that quoted a HUD official saying, ''The increase in the loan limit is vital to the President's nationwide home ownership campaign, and if it passes Congress, it will surely translate into votes in the next Presidential campaign.''

I'm not sure that is why we have this increase. I just don't think that is what the Federal Government should be doing. I might mention the administration wanted to take it up to $227,000, so maybe I should thank my colleagues from Maryland and Missouri because they did not go to $227,000. They did not accede to the President's request. The President wanted to take it to $227,000 nationwide. That is a quarter of a million dollars. That was the administration's proposal. To me, that is absolutely wrong and we should not do that.

What kind of a job has FHA been doing? Have they done such a great job that we should be encouraging them to make more and more loans? I might mention, when you are having a Federal insured loan, you are crowding out private sector loans. Shouldn't the private sector be making loans? If we are talking about loans of $200,000, shouldn't the private sector be making those loans with the risk that is involved? Or are we going to have the Federal Government do it and have the taxpayers at risk? I think the private sector should do it. If somebody wants to build or buy a $200,000 home, great, I hope they do. But I don't think the taxpayers should be at risk for it.

I have a young son who is working. When he looks at his paycheck he says, ''Hey, Dad, thank you very much. You guys are taking a big chunk out of my check. Thank you very much.'' I don't think we should put his tax dollars at risk for somebody having a $200,000 home. He doesn't have one. My daughter doesn't have one. Why in the world should we be putting them at risk to be guaranteeing $200,000 loans? I don't think we should be doing that. But we are getting ready to do it in this bill. So I think that is a serious mistake.

Is FHA doing such a great job? They have three times the default rate of conventional loans. They are not doing that great if they have a default rate running at 8.4 percent, three times the national rate in conventional loans.

They have a smaller downpayment, which means a much greater risk. If you have a loan with FHA, I believe the loan-to-value ratio is 96 percent. That is far lower than conventional loans, so you have a lot more risk and three times the default rate.

FHA is not doing such a great job. We have a system that really encourages lenders to make FHA-insured loans, and that is another part of our amendment. We try to take some of the incentive away from lenders steering home buyers into FHA. Right now the system is really loaded, really geared towards FHA. You get a 100 percent Federal guarantee if you go FHA, and if you happen to be in the business of lending, you are going to get a much better deal going through FHA than you do through the private sector.

In our amendment, we also change the point level dealing with Ginnie Mae. We raise the Ginnie Mae guaranty fee from 6 basis points to 12. I might mention, under most conventional loans, servicing fees to lenders are usually about half, about 25 points, but under current law, FHA, it is 44 points.

What does that mean? If you are servicing a $100,000 loan, under a conventional mortgage you will get about half of those 50 basis points, or $250 on a $100,000 mortgage. If you do it for FHA, you get $440, a much better deal if you go with the Government-guaranteed loan. There is a much lower downpayment, and the Federal Government is going to guarantee it 100 percent. There is a real encouragement for people to steer home buyers into FHA. The Government is going to take care of it.

I might mention, that has had a catastrophic effect in many, many neighborhoods. This is sad.

Let me read a little summary. And, Mr. President, I will have several articles printed in the RECORD from people who studied this issue far more than I. But this is from a report that was done by the Chicago Area Fair Housing Alliance policy paper dated March of 1998, and it talks about the two faces of FHA. I will read a couple points:

> The Chicago Area Fair Housing Alliance has conducted studies which indicate that when FHA lending is concentrated, it has disastrous effects on these areas of concentration, resulting in undue levels of blight and disinvestment.

It goes on. It says:

> Yet our research clearly indicates that a pattern of FHA lending that limits housing opportunities contributes to segregation, perpetuates a myth of race as a contributor to community disinvestment and ultimately leads to community decline itself. The racially discriminatory effects of FHA single-family programs have been known to HUD for more than 25 years. However, HUD has failed to take its share of responsibility for the role FHA plays in the destruction of these communities.

It goes on:

> FHA has allowed itself to be a direct contributor to community disinvestment and decline.

We should be ashamed of ourselves. In other words, FHA in many areas has done more damage than good and has contributed to the decline of many, many neighborhoods.

This didn't come from DON NICKLES, from my research, this came from a group, the Chicago Area Fair Housing Alliance.

Mr. President, I will point out a few other comments that were made by people who have studied this issue, again, far more than I, just for the information of our colleagues, so they can see what a lot of people have said, that raising the FHA loan limits is not the right thing to do.

There is a letter from the Cato Institute, dated July 16, 1998. I will read a section.

Mr. President, it says:

I wish to remind you that in the late 1980s the FHA lost over $2 billion of taxpayer funds when it became overextended. I fear that we may soon be facing the same problem today.

It is also worth noting that the FHA already has a very poor lending record. At a time when the average conventional mortgage default rate hovers between 2 and 3 percent, FHA incredibly has an 8.4 percent default rate. I am very fearful that the FHA is becoming a ticking timebomb that will explode in the taxpayers' laps.

That was by Stephen Moore.

Americans for Tax Reform—I will highlight one page:

The time has long passed since potential homeowners needed drastic federal intervention to qualify for affordable loans. With today's home ownership at an all-time high and with an innovative private mortgage market meeting the needs of homeowners across the bracket, logic would strongly suggest scaling back the FHA.

The bill we have before us doesn't scale back the FHA, Mr. President, it expands it, and expands it rather dramatically.

The Heritage Foundation issued an executive memorandum, dated July 16, 1998. I will read a short part of it:

If ultimately enacted into law, these provisions—referring to the expansion, raising the loan limits—would expand the federal government's role even deeper into the residential mortgage market, provide windfall profits to a select group of mortgage financiers, undermine the viability of private mortgage insurers, and expose the U.S. taxpayers to a costly bailout for an already faltering FHA insurance fund.

According to budget data provided to Congress by HUD, the FHA's 1997 property acquisitions through foreclosure were up 117 percent, or a staggering $2.3 billion, from initial projections.

I might mention, if my memory serves me correct, in 1997, FHA foreclosed on $5 billion worth of properties. This is not a success story in housing.

I will read from a different group. I have read from the Heritage Foundation, from the Cato Institute, and from a taxpayers group. Those groups are usually perceived to be free enterprise, conservative think-tanks and institutions.

This is from the Consumer Federation of America. It doesn't fall into the above category. It says:

''I am writing to express our strong support for your amendment''—the amendment by myself, Senator KOHL and others—''to the HUD Appropriations bill when it comes to the Senate floor.''

The amendment eliminates a proposed increase in the high-cost FHA loan limit, which will keep FHA focused on the moderate-income home buyers it was created by Congress to serve.

It continues:

Your amendment discourages lenders from inappropriate behavior by bringing the fee they make on FHA loans more in line with private sector fees—without any increase in the cost of an FHA loan to consumers.

They are right. Again, I reiterate, one of the things that we did in adjusting the guaranty fees on Ginnie Mae, going from 6 points to 12 points, will be to bring down the staggering servicing fees to the lenders from 44 basis points to 38. That is not much, but it moves it closer to being in line with the private marketplace. The marketplace is a lot closer to 25 basis points. Right now this very high fee is a real incentive for people to steer loans to FHA. We shouldn't have a Federal policy making it more profitable for people to send their loans FHA insurance with the Federal Government guaranteeing the loans. That doesn't make sense, but that happens to be current policy.

I ask unanimous consent that letters and statements from the Cato Institute, from the Americans for Tax Reform, and the National Taxpayers Union, as well as the Consumer Federation of America, be printed in the RECORD.

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

CATO INSTITUTE,
Washington, DC, July 16, 1998.

Hon. DON NICKLES,
U.S. Senate, Washington, DC.

DEAR SENATOR NICKLES: I just wanted to write you to thank you for your efforts to block any increase in the top FHA loan limit this year. With the FHA already holding over $300 billion of loans in its portfolio, it is the height of fiscal folly to be substantially increasing the size of the FHA loan portfolio, particularly since this policy would mostly affect higher income homebuying. Taxpayers are already at great risk of default, especially if the housing market goes into slowdown. I wish to remind you that in the late 1980s the FHA lost over $2 billion of taxpayer funds when it became overextended. I fear that we may soon be facing the same problem today.

It is also worth noting that the FHA already has a very poor lending record. At a time when the average private mortgage insurance claims rate hovers between 2 and 3 percent, FHA incredibly has an 8.4 percent default rate. I am very fearful that the FHA is becoming a ticking timebomb that will explode in taxpayers' laps. just as the savings and loan bailout required billions of dollars of taxpayer rescue funds in the late 1980s.

There is no reason that a federally subsidized agency should compete with the private market place, when private companies are quite adequately serving market need. The primary effect of increasing the FHA loan limit will be to divert homebuyers from PMI insurance to FHA insurance.

I'm enclosing a recent article of mine on FHA policy as well as my recent testimony before the Banking Committee. My position has been and continues to be that we ought to move aggressively towards privatizing the FHA, not expanding it.

Best wishes,

STEPHEN MOORE,
Director of Fiscal Policy Studies.

AMERICANS FOR TAX REFORM,
Washington, DC, June 18, 1998.

Hon. DON NICKLES,
U.S. Senate, Washington, DC.

DEAR SENATOR NICKLES: I am writing to applaud your efforts to reject the provision in the FY 99 VA/HUD Appropriations bill that unnecessarily hikes the current Federal Housing Administration (FHA) loan limits to $197,490 in high-cost areas and to nearly $109,000 in lower-cost markets. Though lower than the $227,150 nationwide limit requested by the Administration, the new limits put forth in the Senate bill would substantially hinder the private market's ability to provide adequate mortgage capital and subsequently place the taxpayer at a higher risk of losses.

In what may have seemed like a plausible solution to solving mortgage debt defaults during the Great Depression, today's FHA loan program has changed little to meet the current structure of the market. The time has long passed since potential homeowners needed drastic federal intervention to qualify for affordable loans. With today's home ownership at an all-time high and with an innovative private mortgage market meeting the needs of homeowners across the income bracket, logic would strongly suggest scaling back the FHA.

Instead of limiting such loan programs, however, the Clinton Administration wants to increase the guaranteed loan rate for the most affluent homeowners, making it possible for higher-income individuals who cannot qualify for credit in the private market to obtain taxpayer-insured loans. Why should Americans, at any level of income, run the risk of paying higher taxes to cover the potential mortgage defaults of higher-income individuals with poor credit ratings?

The FHA loan program, which requires minimal payments yet loses $4 billion per year, has a default rate of three times the national average in comparison to the private sector. Lacking any credible economic wisdom, we must assume that the Clinton Administration will use the taxpayer-funded loans to harvest votes.

The Congress should not place American taxpayers at a higher risk of losses by increasing FHA's loan limits. Americans for Tax Reform, and the undersigned groups, in support of limiting the tax burden on all Americans, considers such an increase as fiscally irresponsible and a gross intrusion into the private market. On behalf of all taxpayers, we applaud your efforts to defeat this provision.

Sincerely,

GROVER G. NORQUIST
(And 6 others).

THE HERITAGE FOUNDATION,
July 16, 1998.

EXECUTIVE MEMORANDUM—WHY RAISING THE FHA MORTGAGE INSURANCE LIMIT WOULD BE BAD POLICY

(Ronald D. Utt, Ph.D.)

As Congress moves to consider the House and Senate appropriations bills for the Departments of Housing and Urban Development (HUD) and Veterans Affairs (VA), lawmakers will have to consider provisions to raise the maximum mortgage amount that can be backed by the Federal Housing Administration (FHA) insurance fund. If ultimately enacted into law, these provisions would expand the federal government's role even deeper into the residential mortgage market, provide windfall profits to a select group of mortgage financiers, undermine the viability of private mortgage insurers, and expose the U.S. taxpayers to a costly bailout for the already faltering FHA insurance fund.

Since early this year, the FHA has been confronting much-higher-than-expected loan defaults and insurance claims. According to budget data provided to Congress by HUD, the FHA's 1997 property acquisitions through foreclosure were up 117 percent, or a staggering $2.3 billion, from initial projections. The FHA further announced that it anticipated this higher rate of foreclosure to continue,

and that it was revising 1998 foreclosed property acquisition estimates upward from an initial $1.9 billion to almost $4 billion. The FHA's declining confidence in the quality of its mortgage insurance portfolio has been justified by events. In the first quarter of 1998, despite the booming economy and rising employment throughout the United States, the FHA's delinquency rate reached an all-time high of 8.35 percent, meaning that nearly one in ten FHA borrowers were behind in their payments. This compares with a default rate of just 2.91 percent on conventional mortgages, the market on which the FHA seeks congressional approval to encroach.

Apparently having learned little from the devastating collapse of the savings and loan industry in the 1980s and the subsequent scandals that revealed shoddy underwriting standards in billions of dollars of mortgages, some Members of Congress are proposing that the FHA be allowed to insure a greater share of the market by moving into riskier, higher-valued mortgages. They also are recommending that the FHA's minimum down-payment requirement be reduced from its already inadequate levels. Minimal down-payment requirements under current law allow the FHA to insure 99.6 percent of a $100,000 loan, leaving little or no equity cushion to protect FHA reserves in the event of loan default and/or foreclosure.

HUD Secretary Andrew Cuomo has proposed that the FHA maximum loan limit be increased to $227,150 throughout the country, and that FHA's already generous down-payment requirements be made even more generous. House and Senate appropriators have agreed to propose much of what Cuomo is asking for: upping the regional cap on the minimum loan from $86,000 to $109,000, raising the maximum cap from $170,000 to $197,000, and allowing borrowers to make an even smaller down payment.

If enacted into law, these changes would worsen an already deteriorating situation within the FHA's insured portfolio by exposing it to disproportionately greater risks. With FHA out-of-pocket losses typically running at a rate equivalent to 30 percent of the value of the loan on the foreclosed property, the unanticipated foreclosed property acquisitions in 1997 and 1998 could lead to additional losses of $1.26 billion against the FHA's reserves.

Rather than placing the taxpayer at far greater risk of having to pick up the tab on foreclosed FHA-backed mortgages, a better alternative for Congress to consider is an amendment to the Senate bill that will be offered by a bipartisan coalition composed of Senators Don Nickles (R–OK), Herbert Kohl (D–WI), Connie Mack (R–FL), Wayne Allard (R–CO), and Russell Feingold (D–WI). Their amendment would raise the floor on the maximum-size mortgage the FHA can insure from the current $86,000 to $109,000 to target first-time and moderate-income home buyers more accurately while also eliminating much of the windfall corporate welfare benefits FHA mortgages bestow on some mortgage financiers. Whereas conventional mortgages allow mortgage originators to keep just 20 to 25 basis points in servicing fees, the FHA currently allows them 44 basis points, which largely explains the real estate industry's enthusiasm for the further federalization of the market. Under the bipartisan coalition's plan, these excessive servicing fees would be cut back to 38 basic points, with the 6-basis-point difference applied to the Government National Mortgage Association, a part of HUD that repackages and reinsures FHA and VA mortgages for final sale to investors.

Although the bipartisan coalition's amendment is a step in the right direction, an even better alternative would be for Congress to reject any expansion of the FHA's scope and instead hold oversight hearings to determine the reason the FHA and the mortgage originators that use the program have done such a consistently poor job of maintaining the financial integrity of a program that could be of considerable value to first-time home buyers. By failing to achieve underwriting standards common in the conventional mortgage market, the existing management of the FHA has exposed the U.S. taxpayer to the risk of a costly bailout and made it likely that many more FHA home buyers will face the humiliation and financial loss of foreclosure.

[Ronald D. Utt, Ph.D. is Grover M. Hermann Fellow in Federal Budgetary Affairs at The Heritage Foundation. For additional information, see the author's ''HUD Wants Federal Housing Administration to Offer More Corporate Welfare,'' Heritage Foundation Executive Memorandum No. 512, March 9, 1998.]

CONSUMER FEDERATION OF AMERICA,
Washington, DC, July 13, 1998.

Hon. DON NICKLES and Hon. HERB KOHL,
U.S. Senate, Washington, DC.

DEAR SENATOR NICKLES AND SENATOR KOHL: I am writing to express our strong support for your amendment to the HUD Appropriations bill when it comes to the Senate Floor.

The amendment eliminates a proposed increase in the high-cost FHA loan limit, which will keep FHA properly focused on the moderate-income home buyers it was created by Congress to serve. Congress should not increase FHA's loan limit to enable borrowers making as much as $75,000 a year to use a government program to buy a home.

The amendment also is a step in the right direction in lowering lender incentives to steer borrowers to FHA-insured mortgages when they may not be the best financing option. Lenders now make nearly twice the amount servicing FHA loans than they do servicing conventional loans. Your amendment discourages lenders from inappropriate behavior by bringing the fee they make on FHA loans more in line with private sector fees—without any increase in the cost of an FHA loan to consumers. Lowering lenders' fees on FHA loans even further would serve as a more effective disincentive for such anti-consumer lender action.

Sincerely,

STEPHEN BROBECK,
Executive Director.

NATIONAL TAXPAYERS UNION,
Alexandria, VA, July 14, 1998.

Hon. DON NICKLES,
U.S. Senate, Washington, DC.

DEAR SENATOR NICKLES: On behalf of the 300,000-member National Taxpayers Union (NTU), I am writing to applaud your opposition to any increase in FHA mortgage insurance ceilings.

The Federal Housing Administration was created in 1934 to fill a void in the marketplace created by the Depression. Its aim has been to assist lower income families in obtaining their first home through mortgage insurance and lower down payments. Thanks to the enormous economic growth experienced in America since World War II, first time homeowners' reliance of FHA subsidized loans has fallen from 50% of the market during the 1950s, to the current level of only 10%. Yet, instead of trumpeting the success in lowering the number of Americans reliant upon government assistance to enter the housing market, the Clinton Administration is seeking to expand this entitlement to the wealthiest 14% of American households.

Now, some in Congress are pushing a ''compromise'' that would raise the top FHA limit to $198,000 and the base FHA limit to $109,000 (up from $86,000). This ''compromise'' will expand FHA benefits to the richest 16% of Americans and will direct FHA away from low and moderate income borrowers.

Defenders of the FHA note that the agency provides an important resource to lower-income families and minorities who wish to purchase a home. NTU fails to see how low income families will be served by FHA loans to those in the middle-to upper-class income range. This is especially curious since approximately 90% of Americans at this income level already own a home or have owned a home in the past. In most cases, families in this income bracket who cannot obtain private mortgages are trying to purchase homes out of their price range. Apparently, supporters of raising the ceilings will not be happy until every wealthy American owns a home at government expense.

In fact, the evidence suggests that low income families would actually be hurt by increasing the mortgage ceiling. A recent GAO report shows that in 1994, the FHA insured only 24% of all loans made to minorities, 20% of all loans to low-income families, and 21% of all loans to first time buyers—all of whom the FHA was supposedly created to help. Under the current system, the only means FHA has to direct loans to these target groups is through the loan insurance ceilings. Raising the ceilings would direct even less FHA assistance to these presumably needy groups. Who can defend lessening federal entitlements to the poor and minorities in order to expand benefits to the richest Americans?

This move also represents an unnecessary government intervention into the private sector—which could have disastrous results. As a document prepared by the House Banking Committee notes:

''Since the FHA pays mortgage lenders significantly higher servicing fees than either Fannie Mae or Freddie Mac (.44% of a loan value compared to .25%) and the agency assumes the total risk, allowing the FHA to expand into this market would skew the incentives of mortgage lenders against dealing with private entities to no justifiable public end.''

In other words, the federal government would crowd private mortgage insurers out of the home mortgage business, leaving the government as the main mortgage insurer for most Americans. What's next? The official U.S. Government Visa card? This represents a clearly unneeded and harmful intrusion into the private sector by the federal government and should be stopped.

In fact, there is some question as to whether the FHA is even necessary in today's market. Presently, home ownership is at an all time high of 65.7%. In 1997 alone, there was a 27.7% surge in minority home ownership. Clearly, the days when most Americans couldn't afford their own home are over.

While the need for the FHA has been decreasing, there has been a serious increase in mismanagement at the FHA. In fact, as recently as last year, the GAO designated the FHA as ''high-risk.'' Within the last year, FHA was forced to change its adjustable rate mortgage program as a result of high losses caused by weak underwriting. A report prepared by the House Banking Committee notes that:

''[I]n 1997, the FHA fund paid 71,599 claims, an 18% increase from the previous year. These foreclosures occurred despite reforms to the FHA fund, the Omnibus Budget Reconciliation Act of 1990, a record low levels of unemployment, increasing real wages, historically low mortgage interest rates, and a period of sustained economic prosperity since 1993. According to the Mortgage Bankers of America, FHA delinquencies have

risen by 23% since 1988. During that same period, Department of Veterans Affairs Single Family Mortgage Guaranty Program delinquencies rose at a much lower rate (only 9%) and conventional mortgage delinquencies actually fell by 8%.''

Plainly, wise lending practices are not being followed by the FHA. What the FHA needs is reform, not expansion.

To put it simply, Washington wants to expand an inefficient federal program that barely helps those it is intended to help in order to provide an entitlement to the richest 14% of American families—done at the expense of low income and minority families.

Mr. NICKLES. Mr. President, I also ask unanimous consent to have printed in the RECORD an editorial that was in the Wall Street Journal on June 8 of this year talking about vote building, which is an excellent editorial that talks about how this policy will hurt areas, large cities, blighted areas, and how this policy will increase, unfortunately, the plight of many, many neighborhoods, as well as the exposure to taxpayers.

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

[The Wall Street Journal, June 8, 1998]

REVIEW & OUTLOOK

VOTE BUILDING

It seemed like a worthy idea at the time. In 1934, when Congress created the Federal Housing Administration, half the nation's mortgage debt was in default. It was felt some entity was needed to help home buyers who couldn't qualify for conventional mortgages. Today, home ownership's at an all-time high and an innovative private mortgage market keeps coming up with new products to extend credit to low and moderate income home buyers. Logic suggests scaling back the FHA: instead, the Clinton Administration wants to make it easier for the affluent to qualify for 100% taxpayer-insured loans. This is intriguing.

FHA's share of the mortgage market has fallen to 9.1% in 1996 from 13.1% in 1990. This has prompted Housing and Urban Development Secretary Andrew Cuomo to propose a plan he says will let the FHA ''maintain its market share'' by increasing its maximum loan amount to $227,150, a one-third increase over current levels.

Not only would this reorient the program to higher-income borrowers who don't need government help to purchase a home, but it would increase the taxpayer risk of loans going sour. Democratic Senator Herb Kohl of Wisconsin notes that the default rate on FHA lending, which requires minimal down payments, is almost three times as high as in the private sector. This year, the FHA is losing $4 billion in loan defaults.

Even at current loan levels, the FHA is having a perverse effect on neighborhoods. The Chicago Area Fair Housing Alliance issued a study this month that found the FHA's 100%-backed loans offer service fees that are twice as large as those for privately insured loans and that encourage mortgage lenders to create loans likely to fail. The result is clusters of abandoned and boarded-up homes in marginal neighborhoods. ''Large inventories of FHA foreclosed, vacant and deteriorating properties are found concentrated in minority and racially changing areas,'' the study concluded. ''It is this blight that creates the impression that racial change causes neighborhood decline.''

There are better ways to open the housing market. Financing isn't the only restraint on supply; there are politically created obstacles. In 1991 a commission headed by then-HUD Secretary Jack Kemp called for removing unnecessary barriers to the creation of housing. New studies have estimated that in high-priced California, where many new FHA loans would be made, the amenity and code requirements can boost prices as much as $60,000 a home.

Despite the taxpayer risks inherent in increasing the FHA loan limit, the Clinton Administration is trying to sell the expansion as a revenue raiser. Added premiums from FHA mortgage insurance would add some $1 billion to the Treasury over five years.

But it may also be an attempt to use a taxpayer-funded program to harvest votes. The April 17 issue of the Housing Affairs Letter, an internal industry newsletter, quoted a HUD official as saying, ''The increase in the loan limit is vital to the president's nationwide homeownership campaign, and if it passes Congress, it will surely translate into votes in the next presidential campaign.'' Former HUD Secretary Kemp calls raising FHA loans limits a ''classic Clinton-Gore strategy: courting suburbanites with proposals that they could rationalize through the prism of politics, but couldn't defend as sound policy.''

Under ideal conditions, a political playpen like the FHA would be privatized and local governments encouraged to fine-tune their zoning and code requirements to help home buyers now frozen out of high-priced markets. But so long as that doesn't happen, it makes little sense to expand FHA loans to people with upper-middle-class incomes.

Who should be eligible for FHA loans? Why not restrict such loans only to those families in the 15% tax bracket. If the Clinton Administration wants to help more people buy homes, it can lower the number of people subject to the steeper 28% bracket, and at the same time provide them with more money to meet the loan payments and avoid default. But with its more upscale ''reform,'' it appears that the White House prefers buying votes the old-fashioned way.

Mr. NICKLES. Mr. President, I have a letter from Jack Kemp, who was former Secretary of Housing and Urban Development, dated July 15, 1998. I will read one short paragraph. He says:

Your amendment will also stop a brash move by the administration to push the FHA further and further away from its core mission of supporting the home ownership dreams of low- and moderate-income American families, a noble mission that has enjoyed bipartisan support in Congress.

The drive to raise the FHA loan limit to $197,000 is motivated by a desire for votes in the fall elections. It would take an income of about $75,000 a year to qualify for such a loan, or the top 16% of wage earners.

Mr. President, I ask unanimous consent to have that letter printed in the RECORD.

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

JULY 15, 1998.

Hon. DON NICKLES,
SH–133 Hart Senate Office Building, Washington, DC.

DEAR SENATOR NICKLES: I am writing to you today to support your efforts to stop yet another attempt by the federal government to expand its power, harm those it intends to serve and trample on the private sector mortgage market. As you know, I have opposed raising the FHA loan limits at all. And the provision in the current HUD/VA Appropriations Bill raising the limits to the proposed level would expose the federal taxpayer to $10 billion in contingent liability. It also would increase economic incentives for mortgage lenders to steer borrowers to the FHA program even though it may not be the best financing option. Therefore, I cannot support raising the FHA loan limits a single dollar.

However, if you have concluded that the provision has sufficient support to pass, I believe your amendment to raise Ginnie Mae's guarantee fees from 6 to 12 basis points goes a long way toward making a bad idea a livable one. And on its own merits, I believe you have an excellent proposal. Without costing a homebuyer an extra cent, your amendment removes the incentive for mortgage companies to unnecessarily direct buyers toward FHA loans. Currently, lenders make twice as much in servicing fees from FHA loans than they do in servicing conventional loans. Even though they require lower downpayments, FHA loans are more costly to the borrower over the life of the loan. By reducing lenders' fees for servicing FHA loans, lenders will have less incentive to steer borrowers to these higher cost FHA loans when they might have qualified for cheaper conventional financing.

Furthermore, the point must be made that without your amendment, the contingent liability on the American people will increase by $10 billion. With FHA delinquencies already at an all-time high, an economic slowdown or recession could render the FHA insurance fund insolvent and that contingent liability would come due.

Your amendment also will stop a brash move by the administration to push the FHA further and further away from its core mission of supporting the homeownership dreams of low- and moderate-income American families, a noble mission that has enjoyed bipartisan support in Congress.

The drive to raise the FHA loan limit to $197,000 is motivated by a desire for votes in the fall elections. It would take an income of about $75,000 a year to qualify for such a loan, or the top 16% of wage earners. Among these borrowers, 86% are homeowners today. It would make more sense to target families making less than $50,000, 40% of whom own their home, and can use the FHA program at today's levels.

I applaud you for your efforts to sensibly raise money for housing programs and keep the FHA program true to its mission of serving low- and moderate-income Americans.

Very sincerely yours,

JACK KEMP.

Mr. NICKLES. Let me just conclude by stating that I regret coming in and opposing my friends and colleagues from Missouri and Maryland on this issue. But if my memory serves, several years ago the Senator from Maryland and I wrestled with this issue on the floor of the Senate.

At that time there was an effort for people to raise the limits. I said, ''Wait a minute. Why are we having the Federal Government guaranteeing more and more loans?'' Home ownership, I might mention, in this country is at an all-time high. I think that is great. Most of that is done in the private sector. It just so happens FHA is losing its percentage share as the private sector has exploded. I think that is good.

I think this increase is an effort by the Secretary of Housing to say, ''Wait a minute. We want the Federal Government to be making more loans.'' I also think it is also driven by a desire to generate more money for the Government. Because as you increase the loan

limits, you increase the fees, and so on, and that allows the Government to spend more money.

I will not get too technical on the budget, but if the committee raises money through fees and so on, that allows them to stay within the ''budget caps'' because they get an offset for the increase in fees, and as a result, by increasing the fees both on the bottom and the top, the committee is going to get about an extra $80 million a year over and above the budget that we agreed to last year, that the President signed. I am not saying it is not within the rules of the Congress. I am just saying I think it is an attempt to have more money to spend. I personally am somewhat troubled by that.

Under existing law, loan rates on both the low end and the top end have already increased. They increased on the low end from $81,000 to $86,000. This committee bill increases it to $109,000. We do not touch that. I think maybe we should, but we do not.

Our amendment just says we should not increase the top limit from $170,000—keep in mind, last year's was $160,000—to $197,000. A $10,000 increase in Federal Government loan guarantees in the high income areas, surely that is enough. The committee wants to take it almost $200,000. I think that is a serious mistake. I think that takes FHA away from its core mission. FHA's mission was to help low- and moderate-income people, not the wealthiest 15 percent of society.

I urge my colleagues to vote in favor of this amendment. We will be voting on it early tomorrow morning. I think it is very important that we protect taxpayers from greater risk, and that we keep FHA focused on low and moderate income home buyers. I thank my colleague from Wisconsin for his leadership and support on this amendment, his coauthorship of this amendment, as well as my colleague, Senator MACK, from Florida, who happens to be chairman of the authorizing committee. I also want to thank Senators FAIRCLOTH, ALLARD, and FEINGOLD for their support in trying to eliminate this expansion of the higher income limits for FHA.

Mr. President, I yield the floor.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, it is always good to see our former colleague on the VA-HUD committee come to the floor to talk about the difficult issues. We certainly appreciate his kind comments.

The VA-HUD-Independent Agencies is a very challenging and interesting area. He raised the question about the increase in spending; and to explain that will perhaps give my colleagues some idea why this is such a complex area.

The total spending includes—total spending is about $93 billion—includes $22 billion in mandatory spending for veterans administration categories. That is about a $4 billion increase over fiscal year 1998. The increase is attributable largely to the following—about a $1.5 billion increase in veterans administration, primarily mandatory spending, things over which our subcommittee has no control.

In addition, there is, HUD figures, about $2.6 billion over last year's figure. And that is because money was taken from section 8 contracts earlier in the year to pay for a supplemental. This is the budget that is always raided. And the broader Appropriations Committee has raided these section 8 contracts. That would be good except for the fact that the cost of renewing section 8 contracts in HUD continues to escalate.

In fiscal year 1997, we needed $3.6 billion in budget authority to renew existing section 8 contracts. Because we had moved to shorter and shorter term contracts, from multiyear contracts down to 2-year and 1-year contracts, it then shot up to $8.2 billion in budget authority for fiscal year 1998, the current year; and it jumps to $11.1 billion in fiscal year 1999. That is the result of the length of the contracts.

But it means, in order to continue providing the same assistance we do currently under section 8, we have to have about $2.9 billion more in budget authority for fiscal year 1999 than we did for fiscal year 1998. If you say we do not want to increase it, it means, in essence, that we are going to have to take away section 8 housing contracts and kick people out. That is just a simple choice.

I must oppose the amendment of my good friend from Oklahoma to strike the increase in FHA mortgage insurance limits for high-cost areas and to offset that with an increase of 6 basis points to the fees that Ginnie Mae charges for servicing costs.

The first point we need to make is that the FHA mortgage insurance increase is a bipartisan proposal, a bipartisan congressional proposal, that enjoys wide support from both Republicans and Democrats in this body. I do not see this modest increase as growing government. Rather, the FHA mortgage increase represents an approach to fill a gap that allows Americans of modest means—moderate-income Americans—to own their own homes, one of the great American dreams for all families.

The FHA was established in 1934 as a result of nearly impossible lending conditions during the Great Depression, and in over 60 years the public-private partnership of FHA and private lenders has enabled more than 25 million families to realize the dream of home ownership. Moreover, the FHA Mortgage Insurance Program supplements and complements the role of private mortgage insurance by assisting families who do not have adequate resources to meet the private mortgage markets' downpayment requirement, which is often 20 percent of the mortgage amount.

While the private mortgage insurance market has made tremendous strides in providing new products to assist families in purchasing homes, many families would be unable to purchase their home without the benefit of FHA mortgage insurance. In brief, the Senate VA-HUD fiscal year 1999 appropriations bill provides modest increases in the FHA mortgage insurance limits, raising the floor from 38 percent of the Freddie Mac conforming loan limit, or about $86,000, to 48 percent of the conforming loan limit, or some $109,000. It establishes a new ceiling for high-cost areas from the existing 75 percent of the conforming loan limit, or some $170,000, to 87 percent of the conforming loan limit, or some $197,000.

And let me indicate where these higher loan limits would be implemented. Right now—this is a chart which shows the United States. The colors of the chart indicate where the low rate, the base limit, is in place. These are the areas in blue. This is where the base lending rate would go from $86,000 to roughly $109,000.

The green areas on here are 95 percent of the local median.

The high-low rate, the one which is being challenged in this amendment which is raised to $197,000, would be in these few red areas on the East Coast—essentially, Boston, New York, Washington, DC area, Denver, CO, and California along the coastline. The rest of the country is not affected by the increases in the higher-end loan limit.

I think the legislation seeks to strike a reasonable balance to promote additional home ownership and would allow home ownership for some 30,000 families, 20,000 in high-cost areas and 10,000 basically nonurban areas. In particular, these new FHA mortgage insurance limits will help in nonurban areas where the price of new housing has escalated beyond the capacity of first-time home buyers to use FHA mortgage insurance to buy a house in some areas because the FHA lower-limits financing is not available for construction of first homes for families of workers with lower wages.

The problem is that the existing FHA mortgage insurance limits do not reflect the higher cost of new homes. New homes cost more than existing homes because of the cost of materials and labor. In addition, there are many other expenses. For example, the cost to develop new housing subdivisions is expensive because of the cost of utility hookups, environmental requirements, local taxes and surcharges for things like schools, roads, fire protection, as well as the cost of buildable land. Currently, the median price for a new home is $142,000, while the median price for an existing home is $126,500, for a $15,500 difference.

Now, this difference is very important for Missouri as well as the rest of the Nation. Home ownership in housing construction has been and always will be a locomotive for the U.S. economy. In addition to the jobs created through

the development of new housing, many nonurban areas in particular will be able to provide the affordable housing that is so critical to attracting new business and to maintaining existing businesses.

I have talked with people in areas just outside the metropolitan Kansas, MO area, in areas of north Missouri, where they are benefiting from new jobs coming into the area but they are strangled because the new jobs bring in people who can't get housing. They can't get affordable housing. This is one of the critical needs for people in those areas so that they can continue to create jobs and see their communities grow. They need to have affordable housing. I am hoping that the raising of the lower limit will enable them to get FHA financing and build new homes.

Now, I don't want to confuse anyone. As I said, Senator NICKLES' amendment does not seek to reduce the increase to the FHA mortgage insurance floor, the one I was just talking about, as provided in the VA-HUD 1999 appropriations bill. Senator NICKLES' concern, as well as those of his colleagues, is that the proposed new mortgage insurance limit of $197,000 for high-cost areas is too high. In particular, in a ''Dear Colleague'' letter, Senators NICKLES, MACK, ALLARD, KOHL, and FEINGOLD state that to qualify for a mortgage of $197,000, a family would need an income of at least $75,000. Well, $197,000 is a lot of money for a house. That cost, however, is the reality in many areas and it needs to be addressed.

In addition, I think it is fair to say that $75,000 is not an extraordinary amount of income for a family. For example, it means that a two-income family, a schoolteacher and a firefighter, will be able to live in a community in which they serve. This is important. I do not think we should lose sight of the importance of mixed-income communities while providing opportunities for home ownership.

Moreover, as part of Secretary Kemp's FHA reform initiative as enacted in the National Affordable Housing Act, Price Waterhouse conducts an actuarial review of the FHA Mutual Mortgage Insurance Fund on an annual basis. From the perspective of actuarial soundness, NAHA mandated a fund to achieve a capital ratio of at least 2 percent by fiscal year 2000. However, the fund reached a capital ratio of 2.81 percent in fiscal year 1997 and is expected to reach 3.21 percent by fiscal year 2000. Moreover, the projected economic value of the Mutual Mortgage Insurance Fund was $11.3 billion at the end of fiscal year 1997. This represents a more than $14 billion increase in the value of the fund since Secretary Kemp's reforms in 1990, when it was a negative $2.7 billion.

In addition, the FHA Single Family Mortgage Insurance Program is self-sustaining, has not cost the American taxpayer any money in its entire existence. Insurance premiums and loan loss recovery proceeds pay for all costs incurred in the administration of the program, leaving sufficient reserves from an actuarial perspective to pay all future claims.

I note that Senators NICKLES, MACK, and FAIRCLOTH have developed a number of very worthwhile reforms to the FHA mortgage insurance program which have been agreed to and will be included in the next managers' amendment. As with my colleagues, I remain concerned over HUD's capacity to administer its many programs, including its FHA mortgage insurance programs. These FHA management reforms would require that each lender provide a comparison of FHA mortgage funding with three of a lender's most frequently employed mortgage loan structures, an annual study by GAO on steering by lenders to FHA, and a requirement that HUD submit an initial report within 60 days annually on how HUD plans to correct mortgage problems in the FHA Single Family Mortgage Insurance Program.

Finally, I have concerns about any changes to the Ginnie Mae servicing structure. I have been advised that any change in the servicing fee will likely result in increased home ownership costs to families, with estimates that it could cost consumers some $250 million per year and price some 15,000 home buyers out of the market each year.

I have a letter from a significant group of veterans organizations that I will place at the end of my statement for the RECORD from the AMVETS, Disabled American Veterans, Non Commissioned Officers Association, Blind Veterans Association, and Paralyzed Veterans of America, saying that any increase in Ginnie Mae fees will result in an added cost to lenders which will invariably be passed on to VA loan recipients. We estimate that even just a 6-basis-point increase in the Ginnie Mae guarantee fee will cost VA borrowers over $67 million annually, with a typical veteran paying over $250 in upfront closing costs. With the veterans already struggling to afford their first homes, this cost increase would be devastating.

I expect the argument of my colleagues will be that lenders currently receive a fee for servicing FHA-insured mortgages of 38 basis points, almost double the fee that lenders receive for servicing loans in the private sector. For example, as opposed to the 38 basis points lenders receive in service fees under FHA, lenders receive between 20 and 25 basis points for servicing fees associated with conventional mortgages guaranteed by Fannie Mae and Freddie Mac. Nevertheless, Ginnie Mae operates significantly different from Fannie Mae and Freddie Mac, particularly when Fannie Mae and Freddie Mac take on the responsibility that all security holders receive their payments, whereas the servicer is responsible for the pass-through on a Ginnie Mae security, and where a servicer fails, it is no longer permitted to participate in a Ginnie Mae program. That is a significant responsibility and merits additional fees.

I send this letter of July 14 to the desk. It happens to be addressed to the distinguished occupant of the Chair. This is a letter from AMVETS, Disabled Veterans, Non Commissioned Officers, Blind Veterans, and the Association of Paralyzed Veterans of America.

I ask unanimous consent to have it printed in the RECORD.

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

July 14, 1998.

Hon. WAYNE ALLARD,
U.S. Senate, Washington, DC.

DEAR SENATOR ALLARD: The Senate is scheduled to consider the FY 99 VA/HUD Appropriations bill, S. 2168 in the next few days. As organizations that share a deep commitment to our nation's veterans, we ask that you oppose any amendments to increase the Ginnie Mae guaranty fee. Specifically, this fee increase would mean added costs to veterans taking out VA mortgages. Quite simply, this policy would make homeownership more expensive for veterans.

Because VA mortgages are typically placed into mortgage-backed securities guaranteed by Ginnie Mae, the VA home loan program is linked to the capital markets. This link means lower cost mortgage funds for veteran borrowers. Ginnie Mae, which charges lenders a fee for the guaranty, makes the whole process possible.

However, any increase in Ginnie Mae fees will result in an added cost to lenders, which will invariably be passed on to VA loan recipients. We estimate that even just a six basis point increase in the Ginnie Mae guaranty fee would cost VA borrowers over $67 million annually—with the typical veteran paying over $250 more in up-front closing costs. With many veterans already struggling to afford their first homes, this cost increase could be devastating.

Please vote against any amendments to increase the Ginnie Mae guaranty fee.

Sincerely,

AMVETS.
DISABLED AMERICAN VETERANS.
NON COMMISSIONED OFFICERS ASSOCIATION OF THE USA.
BLINDED VETERANS ASSOCIATION.
PARALYZED VETERANS OF AMERICA.

Mr. BOND. I urge my colleagues, when the vote is held on this very important amendment tomorrow morning, that they oppose this amendment. I believe the time has come to provide this modest increase in the loan limits, and I hope our colleagues will support the committee in this effort.

I yield the floor.

Mr. KOHL addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. Mr. President, I rise as a cosponsor of the amendment offered by my colleague from Oklahoma, Senator NICKLES. As my colleagues know, this amendment would strike the increase to the high-end FHA loan limit included in the VA/HUD bill.

FHA is intended to fill an important mission—helping low- and middle-income Americans purchase their first

homes—helping those who are not served by the private market.

For this reason, our amendment leaves the proposed increase to the low-end FHA loan limit in place, ensuring that in the vast majority of States across the country—97 percent of the counties in the United States—the loan limit will be more than sufficient for low- to moderate-income people to purchase homes of their own.

But we should all be reminded that any decision to raise the loan limits on the high end should be approached with caution. FHA loans are 100 percent insured by the Federal Government. If a home owner goes into default, it is the taxpayer, not the lender, that bares the risk. And that's no small risk—FHA default rates are three times higher than defaults on conventional mortgages. Last year, foreclosures on FHA homes resulted in over $5 billion in claims.

There is no reason to extend that risk on behalf of home buyers who are already well-served by the private market. Raising the high end limit and expanding FHA to cover expensive homes may very well jeopardize the health of the entire program. Higher priced home loans, especially when combined with the relatively low downpayments required by FHA, default more often—and obviously cost more when they default. Raising the high end limit would clearly place the Federal Government in competition with the private sector, needlessly expose taxpayers to more risk, and give upper income home buyers access to mortgage credit they don't need.

Changing the high end limit will steer the program away from working families—at a higher cost to taxpayers—with more devastation to the communities that hold abandoned, foreclosed-upon FHA properties.

With this amendment, we have the chance to ensure that the program stays focused on borrowers who legitimately need help and also to create a strong, healthy FHA that works for everyone—home buyers, lenders, and the taxpayers.

So I urge my colleagues to support the Nickles amendment.

Mr. FEINGOLD. Mr. President, I rise today to join my colleagues, Senator NICKLES, Senator KOHL and Senator MACK in supporting this amendment to strike language raising the ceiling on mortgage limits insured by the Federal Housing Administration.

Mr. President, the appropriations bill we are currently considering includes language that would raise the ceiling on the Federal Housing Administration's loan limit from the current level of 75% of the conforming loan limit—approximately $170,000—to 87% of the conforming loan limit, which is approximately $197,000.

Mr. President, it is—quite frankly—astounding to me that Congress is considering action that would raise the FHA loan limit. In a time when Congress needs to be focusing on balancing the budget, it is truly ironic to me that some members seem to want to increase the burden to taxpayers by expanding a government program into an area already well-served by the private sector. In case you or any of our colleagues is wondering, a $197,000 loan translates to a house worth over $200,000. To afford such a house, a family would have to have annual earnings of over $75,000—an income level that only about 16% of American families are at. I don't know about you, Mr. President, but in Wisconsin, we don't consider folks who own $200,000 homes to be ''needy.'' These upper-income families are already well-served by the private market.

Mr. President, the arguments against raising FHA loan limits are overwhelming: HUD's own FY 1999 Budget proposal predicts a 100% increase in the default rate for 1998—totaling $4 billion. The very same Committee Report seeking to raise the loan limits also acknowledges, and I quote, ''concern[s] about HUD's capability to manage the FHA mortgage insurance programs and the potential exposure of the Federal Government if there is an economic downturn.'' Since 1990, while the mortgage delinquency rate in the conventional market fell by 8%, the FHA delinquency rate rose by 23%. FHA backs 100% of every loan it insures, and so those delinquencies and defaults are borne 100% by taxpayers. It would seem to me, Mr. President, that those who seek to increase FHA's loan-limits are sending a strong message that they are willing to let American taxpayers pick-up the tab.

Mr. President, I have here a letter from the National Taxpayers Union to Congressman Bob Livingston, Chair of the House Appropriations Committee. The letter, which I would ask be inserted in the record, sums-up—I think very nicely—the manifold concerns with increasing the loan limit ceiling:

> Defenders of the FHA note that the agency provides an important resource to lower-income familes and minorities who wish to purchase a home. NTU fails to see how low-income families will be served by FHA loans to those in the middle-to upper-class income range . . . Apparently, supporters of raising the ceilings will not be happy until every wealthy American owns a home at government expense.

It would seem to me, Mr. President, that rather than raising the FHA loan limits, Congress needs to be thinking critically about what steps we can take to improve the actuarial safety and soundness of FHA programs so that it can continue to help working families purchase their homes. Rather than expanding the program for the benefit of upper-income borrowers and special interest groups, we ought to be thinking about how we can make sure those working families of modest means are truly being served by the existing FHA programs.

Mr. President, the amendment my colleagues and I are introducing today would remove language raising the FHA loan limit ceiling and increase the Ginnie Mae guaranty fee by 12 basis points. I believe that raising the loan limit ceiling to $197,000 is fiscally irresponsible, unnecessarily expands a government program into an area already well-served by the private sector, and distracts the FHA from its mission to serve lower-income home-buyers. I hope my colleagues will give careful consideration to these concerns and support our amendment.

I yield the floor.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. SARBANES. Mr. President, I rise in opposition to the Nickles amendment. The simple fact is that the Nickles amendment would greatly reduce the availability of FHA loans, which have helped millions of first-time, low-income and minority home buyers share in the American dream of home ownership. S. 2168, before us, currently includes a provision that would expand the FHA loan limits in high-cost markets only—in high-cost markets only—from a current cap of $170,000 to a new cap of $197,000 in such high-cost markets. My able colleague from Missouri earlier indicated on a map where those markets would be located.

Now, the committee's proposal represents, I think, a very significant and appropriate compromise to the administration's request. The administration's request was to institute a single, nationwide loan limit of $227,000. The committee did not go down that path. The committee, instead, went down the path of raising the lower limit which, interestingly enough, this amendment does not try to strike, apparently, according to my colleague from Oklahoma, because of just political realities of the matter, and also raise the high-cost limit, maintaining that distinction. I think it represents a very significant compromise. I urge my colleagues to support the committee and to reject the amendment.

Now, we are experiencing a time when almost two-thirds of American families own their own homes today. This would not have been possible without the FHA Single Family Mortgage Insurance Program. Each year, about 700,000 Americans purchase homes using FHA insurance. The vast majority of these home buyers could not qualify for a conventional home loan. If the FHA weren't available, they would not have been able to break into the ranks of homeowners.

The point is made that the default rate within the FHA is somewhat greater, at 8 percent, than it is in the private insurance market. But that is because, of course, the FHA is making this opportunity available to people who would otherwise be closed out of the market altogether. Of course, the reverse side of the 8 percent is the 92 percent who were able to break into the home ownership market.

It is estimated that 77 percent of first-time home buyers and 85 percent of minority home buyers who use FHA

would not have qualified for private mortgage insurance. And since the FHA insurance premium is financed through borrower premiums, it does not end up costing the taxpayer.

One of the difficulties is that FHA insurance, at a set figure, cannot be utilized effectively in all parts of the country. Nationwide, there are 43 metropolitan areas, representing 25 percent of the population, which are capped at the current ceiling of $170,000. In 32 out of the 43 metropolitan areas, the median home price exceeds the $170,000 figure. So at the $170,000 figure, in 32 of the 43 metropolitan areas, the median home price exceeds that figure. In Maryland, half of our counties—12 of our 24 countries—are now capped at $170,000. Now, by striking the provision in S. 2168 which raises the loan limits in high-cost areas to $197,000, the result of the Nickles amendment would be that hundreds of thousands of Americans would be denied the opportunity to purchase modestly priced homes simply because they live and work in high-cost parts of the country.

These are not wealthy Americans. These are teachers, policemen, and firemen who serve in communities where they often cannot afford to live. Now, this isn't just unfortunate, this is also unfair. What has to be understood is that a limit that will work in one part of the country will not work in another part of the country. In other words, if you say, well, we ought to give moderate-income people an opportunity to have home ownership, you have some parts of the country where the cost of housing is low, incomes are lower, costs are lower, a whole different dynamic works, and other parts of the country where costs are much higher and housing costs in particular are much higher.

I can take you on a very short ride from here to jurisdictions where ordinary working people would not have a chance at home ownership, except through the FHA program. We need to raise those limits in those areas because the median housing cost is now well above the existing cap.

Furthermore, I want to know—because of the split which the Senator from Oklahoma has made where he said he doesn't go after the lower limits, which, of course, have a much broader application throughout the country—the Nickles amendment imposes substantial increases in Ginnie Mae user fees. This imposes a double hit on consumers. First, the increased cost to lenders will be passed along to FHA consumers in the form of higher interest rates and/or larger downpayments. Second, FHA lenders may opt out of the program if the cost of participation becomes too high.

The net result of these changes, the increase in the Ginnie Mae user fees, would be a substantial reduction in FHA use and availability even within the current loan limits. And to those of my colleagues who do not have high-cost areas in their State, I point out that the Nickles amendment provision to increase the Ginnie Mae user fees would hurt all FHA users regardless of the size of their loans. By contrast, S. 2168 would increase FHA participation without placing a cost on the taxpayers or any additional financial burdens upon FHA consumers.

Mr. President, the FHA program has helped millions of Americans purchase homes who would not otherwise qualify. The FHA program serves a much higher percentage of first-time, low- and moderate-income and minority home buyers than any conventional loan product.

If we as a Nation are committed to supporting home ownership for all Americans, we should reaffirm our commitment to the FHA program.

I really want to commend the committee, I think, for the very careful balance which they developed. This is a far departure from what the administration's request was. In fact, I think the committee obviously took into account the number of points that had been raised by proponents of the Nickles amendment in making their calculations and reaching their judgments in terms of what to do. But unless we raise the cap in the high-cost markets, they are really going to get excluded from the possibility of home ownership. People really qualify as low- and moderate-income people in those high-cost areas. The Nickles amendment allows the floor figure to come up, which in those areas of the country means that the very sort of people that I am concerned about in the high-cost areas would, in fact, not be able to obtain home ownership. I don't think the people in the high-cost areas who confront a whole different economic circumstance ought to be denied that opportunity.

This program has been enormously important and successful in moving Americans into home ownership who would not otherwise have had that opportunity.

I urge my colleagues to vote against the Nickles amendment.

I yield the floor.

Mr. MACK addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. MACK. Mr. President, I rise in support of the Nickles amendment.

At the outset, I want to say to the chairman of the VA-HUD Subcommittee, both to Senator BOND and Senator MIKULSKI, that I congratulate them for their effort in putting together what is generally a good and balanced HUD appropriations bill.

As chairman of the HUD's authorizing subcommittee, I appreciate the difficulty of funding the most important parts of HUD's mission, while also addressing the critical need of the Department to reform its management and operations.

I especially appreciate Senator BOND's cooperation in helping ensure the effective implementation of the section 8 ''mark-to-market'' program we enacted last year. However, on the issue of FHA loan limits, Senator BOND and I disagree.

I am concerned that the Appropriations Committee did not consider the views of the authorizing committee. This is a major policy change that is being implemented through the appropriations process despite evidence gathered in hearings that would indicate that the change is ill-advised.

Last month, the Housing Opportunity and Community Development Subcommittee held two days of oversight hearings on FHA. The Subcommittee heard extensive testimony from HUD, GAO, the HUD Inspector General and outside witnesses on the programs, operations and mission of FHA, and on proposals for reform. I heard little testimony at those hearings that made a compelling case to raise the FHA loan limit. As chairman of the authorizing subcommittee, I would not have recommended an increase in the loan limits.

This bill does not contain the Administration's initial proposal for raising the loan limits—a proposal I strongly oppose. However, the proposal contained in the bill does focus attention away from the traditional mission of FHA of serving low- and moderate-income families and first-time home buyers. Further, it covers up some of the fundamental problems in the FHA single-family insurance program that jeopardize its long-term stability.

This proposal would result in targeting FHA, in part, to households well above median income, the vast majority of whom are already homeowners. An increase in the maximum mortgage amount would do little to help the households that FHA is intended to serve, namely moderate income families who for one reason or another do not have access to the conventional mortgage market.

Mr. President, Senator NICKLES, I think, did a good job of arguing his position, and the points that Senator SARBANES raised is one of the central areas of debate.

I would like to focus my attention on some other aspects of FHA. I want to focus the bulk of my comments now on a series of management problems in FHA which should be corrected before FHA expands its program and assumes further risks.

At a Housing Subcommittee hearing in May, we heard testimony concerning serious material weaknesses in internal controls, financial systems and resource management that make the Department vulnerable to waste, fraud and mismanagement. Although HUD is in the process of a major management reform program, the ultimate success of that effort is questionable.

FHA, with about $400 billion of insurance-in-force and a portfolio of 6.7 million single-family loans, is HUD's largest, most visible—and most vulnerable—program area. Many of the material weaknesses identified and described by the HUD Inspector General,

the General Accounting Office and others, involve FHA programs. Further, these problems have been identified in each independent audit of FHA conducted since fiscal year 1991.

First, FHA's staffing resources have significantly declined over the past several years. Furthermore, the majority of staffing reductions that have already occurred or are planned under HUD's 2020 Management Reform come out of FHA's single-family operations. FHA's staffing resources have declined during a period where its insured portfolio has continued to increase. In 1992, FHA's staff was about 6,800, but today, its staff is down to around 4,100. This is equivalent to a 40 percent reduction. This raises concerns about the quality of skilled staff that remain at FHA today, since many senior staff have left the Department. Replacing this staff is problematic, since unlike private entities, FHA does not have the authority to hire staff or the ability to quickly invest more resources in automated tools or staff training when its business increase.

Second, FHA has serious weaknesses with its accounting and financial management systems. The main problems with its information system is that the systems are not linked and integrated or configured to meet all financial reporting requirements. Also, data quality problems exist in its default monitoring system. Although these problems have been recognized for several years. The HUD Inspector General has found that ''resources needed to develop state-of-the-art systems are lacking'' because of budgetary constraints or the lack of prioritizing these matters.

FHA's accounting and financial management systems will also be affected by the so-called ''Year 2000'' or ''Y2K'' problem. FHA has 19 critical systems that OMB has mandated to be Y2K compliant by March 1999. However, only two systems have been programmed to address Y2K, and neither has been certified as Y2K compliant. The GAO recently warned that failure to address the Y2K problem could result in system failures that would interrupt the processing of applications for mortgage insurance and the payment of mortgage insurance claims.

Third, data integrity problems with its default monitoring system has affected FHA's ability to effectively monitor the performance of its mortgagees. FHA also lacks an effective underwriting system that can predict which borrowers pose the greatest risk. Identifying and managing risk is absolutely critical to the long-term soundness of FHA.

While FHA's single-family insurance fund currently exceeds its capital reserve requirement, there have been recent indications of potential problems in the FHA program. If these problems are not corrected, then FHA faces financial instability. For example, FHA defaults are serveral times higher than either the VA or the conventional mortgage market. During fiscal year 1997 claim payments for FHA-insured loans, especially for adjustable rate mortgages, were far higher than expected. The inventory of single-family properties owned by HUD increased by about 30 percent to more than 30,000. We have also heard and seen evidence that the geographic concentration of mortgage defaults, and FHA's inability to manage and monitor its portfolio, have damaged neighborhoods and permitted families to purchase homes that are either substandard or unafforable. In addition, Fannie Mae and Freddie Mac have recently introduced lower down payment mortgage products that may attract some of FHA's lower-risk borrowers, leaving FHA with more of the high-risk market.

There is no denying that the FHA single-family insurance program has been a success. More than 24 million households have used FHA since its creation in 1934. FHA has traditionally been a preferred tool for homeownership by young families and first-time homebuyers and by lower income and minority households who for many reasons have not been served well by the conventional marketplace. And, thanks to reforms begun under Secretary Jack Kemp, FHA has made significant strides toward financial stability. I have a strong interest in ensuring that FHA take all of the necessary steps to ensure that it continues to serve the people and communities the program is intended to serve and will ultimately make the program more financially stable.

However,I question whether it is prudent for any business, let alone one ultimately subsidized by the taxpayer, to expand its operations while attempting to deal with serious management problems. And on the basis of this concern alone, an increase in FHA loan limits would not be prudent.

Mr. President, I yield the floor.

Mrs. BOXER, Mr. President, I take the floor to stand in opposition to the amendment that would strike the raise in the ceiling on the Federal Housing Administration loan limit. I believe the raise in the ceiling is critical for high cost real estate market areas, and I urge my colleagues to vote no on this amendment.

This bill raises the ceiling on FHA loans from 75 percent of the Freddie Mac conforming loan limit, which is about $170,000, to 87 percent of the conforming loan limit, or about $197,000. This is particularly good for my state, where the cost of housing is so high, especially in Los Angeles and San Francisco.

FHA loans encourages lenders to make mortgage credit available in areas and to borrowers who may not otherwise qualify for conventional loans on affordable terms, such as first-time home buyers. Raising the loan limit will help those who have not been able to get conventional loans because of small credit blemishes or a lack of a large cash downpayment. These are the gaps in homeownership that FHA now fills, across income levels, and home prices.

This is a modest proposal, and one that helps consumers residing in high-cost areas of the country who are currently locked out of housing because the FHA maximum of $170,362 is less than the average cost of housing.

The cost of housing is so high in the Bay Area, that Bridge Housing Corporation rarely uses FHA. Carol Galante, the president of Bridge, one of the largest non-profit housing developers in the country, says she rarely can use FHA insurance because the loan limits are so far below the median home price for Northern California.

Raising the FHA loan limit will enable FHA to reach more borrowers and more communities which are not currently being served by the private mortgage industry. The raise in the FHA loan limit as provided for in this bill will help between 125,000 and 175,000 worthy American families, including 16,500 to 23,100 California families, to have access to homeownership over the next 5 years.

In the 15 highest cost U.S. housing markets, the homeownership rate is only 58%. That is more than 7 percentage points below the national average, and in these markets, FHA is the only credit program not available to moderate-income households. Thus, in places like New York, Boston, Los Angeles, and San Francisco, over 7% of families are systematically denied access to homeownership. This increase in the loan limit will allow 18 counties in California to raise their loan limits.

The increase in the loan limit will generate revenues of about $80 million a year. FHA has never called upon the taxpayers for a bailout, and certainly will not under this proposal.

Ms. MIKULSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I rise in opposition to the Nickles amendment.

I wish to associate myself with the remarks by the chairman of the subcommittee, the Senator from Missouri, Mr. BOND, as well as the senior Senator from Maryland, Mr. SARBANES, who also is the ranking member on the Housing, Banking, and Urban Affairs Committee. Senator SARBANES outlined, I think in rather solid, logical terms, exactly why the Nickles amendment really is, though well-intentioned, flawed in its public policy ramifications, as did Senator BOND.

I must say that initially, when Secretary Cuomo came and presented this idea, I really raised my eyebrows. I thought, my gosh, FHA—he wanted to raise the limit to $227,000. That is a quarter of a million dollars. That is a lot of money. Now, from the time I either chaired the subcommittee or now, as ranking, it has been my passion and my commitment to public policy to expand opportunities for first-time home ownership, and two significant tools

were in the VA-HUD Subcommittee—the VA mortgage itself, which has been a significant empowerment tool for minorities and for others who might have been really segregated out of the mortgage market, and also FHA has been very, very important in terms of first-time home buyers.

But yet as we looked at the facts, it really became important for us to lift the limit, and we felt that a reasonable approach would be to raise the FHA loan limit in high-cost areas, many of which are in my State, from $170,000 to $197,000, and also to raise the limit in low-cost areas from $86,000 to $108,000, which are also in my State, and to streamline the downpayment calculations to reduce administrative costs and burdens.

The administration wanted to have just that one limit of $227,000 for all communities. I do not believe that one size fits all. I do believe we need to recognize the realities of the market.

In addition to that, we are concerned about foreclosures, and we did not want to risk people getting into so much debt early in their lives or risking the loss of a home because they got in over their heads. We did not want to end up with heartbreak for the families and heartburn for the taxpayers.

I believe what we have here is a good middle ground. Included in the language, in addition to the mortgage, we direct HUD to consult with Congress before beginning its bulk sale of foreclosed properties so that we can deal with the way they deal with foreclosed properties, which I am not happy about and I know the Presiding Officer is not either. I do not want to see those properties go at fire sale prices or end up blighting a community when it should have been a tool of empowerment. The Federal Government ends up being a slum landlord, selling it to someone who either cannot afford it or chooses to use it to downgrade the neighborhood. FHA should be a tool for first-time home buyers and not a tool for neighborhood deterioration.

Let me just give you some figures from Maryland and why I think this bill is good for Maryland and also good for the Nation. There are three counties in Maryland at the current low end limit of $86,000. They are Allegany, Garrett, and Somerset. And I also know Dorchester sits somewhere in there as well. In Garrett, the realtors report that the median home price is $124,000 in a county where the FHA limit is $86,000. That is a poor county. FHA is a very important tool. It is not a poor county, but it is of very modest means.

Eleven counties out of our 23 and Baltimore have limits at the FHA limit of $170,000, yet in Montgomery County housing the median price is $174,000. Raising these limits, I note, could help create 2,000 new home buyers in the State of Maryland.

Well, Mr. President, that talks about Maryland, and I have a whole set of facts here on why it would be good for the Nation and also why increasing the Ginnie Mae fees would really give me pause, and I absolutely oppose raising the Ginnie Mae fees.

What applies in Maryland will also apply in many communities around the country.

This is especially true in many urban high cost areas, particularly in the Northeast and California. It is also true that in many rural areas in the heartland of the country. FHA does not meet the local market realities.

HUD estimates that the provision we have included in our bill will provide for 17,000 new home buyers annually and generate $80 million a year in revenue for the FHA fund.

HUD estimates the Senate's FHA increase will raise the limits in 32 high-cost metropolitan areas and 174 lower cost areas.

But let's be clear; we're not talking about buying a place, but we are talking about buying a home. It is estimated that the average loan amount under the Senate proposal will only be $142,000.

We have raised the limits enough to meet today's market realities without unduly increasing the risks for foreclosures.

FHA is also a critical resource to fill the gap for potential home buyers who are credit worthy, but don't have the money for large down payments. Two-thirds of FHA loans have down payments of 5 percent or less, while only 8 percent of private mortgage insurance purchases are low down payment loans.

Why oppose the Nickles amendment? Two reasons: it eliminates the high-cost area increase and increases GNMA fees by 6 basis points, from 6 to 12.

ELIMINATES INCREASE IN LOAN LIMIT IN HIGH COST AREAS

Striking the high-end increase will affect people in 32 high-cost areas across the country, including several areas in Maryland—Baltimore City, and three counties: Baltimore, Montgomery, and Prince Georges.

For thousands of people in high cost cities and counties across the country, FHA will be severely limited in its ability to provide this real resource for families shopping in the local housing markets.

INCREASES GNMA FEES

The Nickles amendment also increase the GNMA fees for those who handle FHA loans. This can get really technical, and the ''experts'' have a nice time detailing the intricacies.

The bottom line is that it will cost more for a lender to have GNMA securitize both FHA and VA loans and despite what people may say, I think we all would agree that when costs go up for a product provider, costs often go up for the consumer.

Simply put, this amendment could make FHA and VA loans more costly for consumers. HUD estimates that it will increase the cost to the lender by an average of $2,200. Several veterans services organizations have also estimated that the increase in GNMA fees will increase costs for veterans purchasing a home by $250. These costs may be passed along to those trying to purchase their first homes.

We do not want to burden our first-time home buyers or our veterans with pass-through costs.

Mr. President, home ownership is critical step in a person or family's attempt to obtain assets and become a more permanent fixture in a community.

Like many of my colleagues, I share the concern about the effect that foreclosures can have on individuals' credit and the stability of a community. My own hometown of Baltimore has been a victim of foreclosures harming neighborhoods.

We have provided a modest increase that does not raise the limit too much too quickly.

Our objective is clear, for those who FHA serves, ensure that it is a useful tool. The objective is not to put the private mortgage insurance companies out of business or to move FHA away from providing for low- and moderate-income buyers.

I believe that the FHA provision included in the Senate bill before us is good for Maryland and good for the Nation.

I believe that this is a positive step in rewarding investment and provides relief to working families.

I encourage my colleagues to oppose the Nickles amendment and support the Appropriations Committee's attempt to help home buyers across the country.

Mr. President, I hope that we defeat the Nickles amendment at tomorrow's vote and I look forward to hearing my colleagues' comments.

Mr. BOND. Mr. President, I think the distinguished Senator from Colorado wishes to speak on this. Has the Senator from North Carolina spoken yet? I believe he also wishes to speak. And then I believe we are ready to go on to the amendment by the Senator from Rhode Island. So I thank the Chair.

The PRESIDING OFFICER (Mr. MACK). The Senator from Colorado.

Mr. ALLARD. I thank the Senator from Missouri. I thank the Chair for recognizing me. I appreciate the other Members who are on the floor allowing me to go ahead and speak. I was presiding, and the Senator from Florida has graciously consented to give me some relief from the Chair while I come down and make some comments on this important piece of legislation.

I want to talk a little bit about my State because I think it gives some idea of how this issue impacts my State.

I happen to be rising in favor of the Nickles amendment, the Senator from Oklahoma. You see the map on the Senate floor entitled ''FHA Loan Limits by County,'' which was alluded to during comments made by my colleague from Missouri. During his comments, he pointed to the Rocky Mountain region in my State. That region

characterizes counties of high levels of income which would be impacted by the upper loan limit increase in the VA/HUD Appropriations bill. These counties have a high preponderance of second homes. The reason these counties have a higher FHA loan limit is that they are recreation counties. People who go to these counties and have second homes make a considerable amount of money.

Now, there is no doubt that there is a housing problem in those counties for individuals who have to run the ski lifts, individuals who work in the ski lodges, but they do not have the income level to afford a loan of $197,000 for a home. In fact, some may not even qualify for the lower loan limit range, which we are raising from $86,000 to $109,000. In addition to this disparity of wages that you see in these areas, many of these counties have implemented a no-growth policy.

Finding affordable housing is certainly a problem we all should strive to deal with, not just at the Federal level, but also at the local level, at the county level, and particularly at the city level. Many counties in Colorado, because of their rapid growth rate, have decided to try to slow down that growth by increasing the costs of development, increasing the costs of homes.

If we have a problem in those counties with obtaining affordable housing, I think that local governments should have a responsibility and should implement some programs that would hold the costs of those homes down so that those with lower and median incomes can afford them.

I think my colleague from Oklahoma, Senator NICKLES, did a very good job in explaining what the current situation is, and the proposed increase of the FHA loan limit. Currently, the lower FHA loan limit is $86,000 and the upper limit is $170,000. This appropriations bill raises both of these limits to a lower limit of $109,000 and an upper limit of $197,000. I like the idea that we raise up the lower loan limits. I think that helps us meet the needs of lower income and median-income families. The higher income limits, in my view, don't need to be subsidized. Most of that market is already met by conventional loans. In fact, in order to have a $197,000 mortgage, a buyer typically needs an income level of $74,000 or more. These individuals are the top 16 percent of the income earners in the United States. Nearly 85 percent of households earning more than $50,000 already own homes. I think that is reflected in the State of Colorado.

I point out this idea of raising the loan limits is a rather controversial issue, as far as Colorado is concerned. The mortgage lenders in my State cannot reach a consensus as to whether this ought to happen or not. They are divided. So it is with a considerable amount of thought and concern that I enter into the debate as it applies to my State of Colorado.

I see no reason why the Congress should be advocating that HUD compete against a very successful private market. I would also point out, from some of the testimony that was received by the Banking Committee on which I serve with the Senator from Florida, Senator MACK, there is really no clear connection between FHA loan limit increases and greater access to financing affordable houses.

So when I put all these factors together, I find myself opposing raising the upper loan limit, and yet supporting an increase in the lower FHA loan limit. I think a lot of the testimony that was heard by the Banking Committee, the authorizing committee, was significant in pointing out that there is a three-times higher default rate for higher loans than there is for lower loans. In other words, the higher the loan is for the home, the higher the default rate is, as far as FHA is concerned.

In this program, if there is a default on a loan, the taxpayers must pick up the cost. I do not think it is necessary for us to provide for that indirect subsidy.

If we look at the lower loan limit, 73 percent of all mortgages of $85,000 or less are already provided by the private sector. Therefore, I think we can assume that this market is being serviced sufficiently. The FHA program is set up to make riskier loans to individuals who are not serviced in the private sector. By allowing the loan limit to increase, FHA will be insuring higher valued loans and will be, as a consequence, exposed to an increased risk.

As I pointed out earlier, as these loan limits increase, the number of defaults will simply increase. I don't think that we should be increasing the upper loan limit. Therefore, I am supporting the Nickles amendment. I think it is the correct approach to the problem, particularly as it applies to my State. I think it is also the right approach as far as the country is concerned since only three percent of the counties will be affected by the upper limit.

Without any further ado, I yield the floor. I thank Senators for their indulgence.

Mr. FAIRCLOTH. Mr. President, I rise to support this amendment. This amendment does two things. First, it limits the FHA loan limit increase to the base level. Second, it creates an equal playing field for private sector and FHA loans.

The current FHA limit for low-cost areas is $86,000. Although it gets indexed every year to median home sale prices in that area (so that it is increased annually), many believe that the limit is too low. Some argue that you cannot build new construction for $86,000.

Now, I thought FHA was for first-time and low and moderate income home buyers. And I didn't realize that first-time home buyers were entitled to a brand new house. I thought FHA was supposed to help with ''starter homes''. But some people feel otherwise and so this amendment will leave the increase in place that raises the limit from $86,000 to almost $109,000.

However, I feel very strongly that we should not be raising the ceiling from the current $170,000 to more than $197,000. To qualify for a mortgage of $197,000 a person must make more than $75,000 a year. Only 15% of the people in this country make salaries that high—and most of those folks already own homes through the private sector.

I don't think when President Roosevelt created FHA back in 1934 that he intended the program to help people making $75,000 a year. I don't think he intended for the federal government to back 100% of those loans. He believed that FHA should step in where the private sector cannot. The private sector is making these loans already. There is no reason to raise the limit to almost $200,000.

Second, the amendment establishes a more level playing field between FHA and private sector loans so that borrowers are not steered towards FHA. Currently, lenders receive huge financial incentives to make loans through FHA.

The first incentive is that the federal government insures 100% of the loan amount. There is no risk to the lender. Total to taxpayer. In the private sector, the lender assumes some of the risk of the loan so there is a greater stake in making sure that a borrower can pay back the loan.

Second, under FHA, the lender makes twice the amount in servicing the loan than what he makes in the private sector. A servicing fee is charged for collecting the monthly mortgage payment, escrowing real estate taxes, etc. There is no justification why lenders should get much bigger servicing fees for FHA loans. CRS said that it would have no effect on FHA loans or increasing costs on homeownership. It only goes to the profit that the servicers make.

Until we level the playing field lenders will have every economic incentive to steer borrowers towards FHA. Remember we've already given the lender a 100% federal guarantee that the loan will be paid back. Now we are making them rich in servicing fees.

I urge my colleagues to support this amendment. FHA has a lot of problems already. Default rates for FHA loans are already three to four times the rate of the private sector. Unless we take steps to change the situation and deter borrowers from being steered towards FHA, things may only get worse for the program and, ultimately, the country. Join consumer groups, the National Taxpayer Union and others in supporting this amendment.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, as the ranking member on the Committee on Banking, Housing and Urban Affairs, I echo the comments made by others praising the work that has been

done by Senator BOND and Senator MIKULSKI in framing the housing part of this appropriations bill. I have had a chance to go over it. I think they have been very sensitive to the various concerns existing in this field. I think they have done a very good job on the legislation. So as the ranking member on the authorizing committee, I want to enter that into the RECORD as others have done, recognizing the general work they have done on this legislation.

Ms. MIKULSKI. I thank my colleague.

The PRESIDING OFFICER. Does the Senator wish a recorded vote?

Mr. BOND. Mr. President, I do not see any other Senators wishing to speak on this amendment.

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.

Mr. BOND. I ask this amendment be set aside and the Senator from Rhode Island be recognized to offer his amendment.

The PRESIDING OFFICER. The Senator from Rhode Island.

AMENDMENT NO. 3203

(Purpose: To increase the funding for community development block grants)

Mr. REED. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. REED] proposes an amendment numbered 3203.

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

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

The amendment is as follows:

On page 33, line 17, strike ''$60,000,000'' and insert ''$70,000,000''.

On page 33, line 21, insert *''Provided:* That none of these funds shall be available for the Healthy Homes Initiative'' before the period.

Mr. REED. Mr. President, I am offering this amendment tonight not only on behalf of myself, but Mr. ABRAHAM, Mr. CHAFEE, Mr. LEAHY, Mr. WELLSTONE, and Ms. MIKULSKI. My amendment would add a modest $10 million increase to the budget for the Office of Lead Hazard in the Department of Housing and Urban Development.

I first want to commend and thank the chairman and ranking member for their assistance and their help. Both Senator BOND and Senator MIKULSKI have committed to finding more resources to prevent the exposure of young children to the lead hazard which is so prevalent in older housing throughout the United States. They have worked very closely with my staff and myself. I thank them for that. I am also very confident they will continue these efforts in conference so we can increase even more the funds that are allocated to this important endeavor.

Over the last 20 years, the United States has made great strides in reducing lead exposure among our population, particularly among our children. Since the enactment of a ban on lead-based paint, since the elimination of lead solder in food cans and the deleading of gasoline, we have seen a significant decrease in blood level exposures of American citizens by about an order of 80 percent. However, it is still estimated that approximately 1 million children nationwide still have excessive levels of lead in their blood, making lead poisoning a leading childhood environmental disease and a disease that can be prevented.

Today, the key culprit in this exposure is lead-based paint in housing. It is the major source of exposure and is responsible for most cases of childhood lead poisoning. It has been estimated that approximately half of America's housing stock, roughly 64 million homes, contain some lead-based paint. Twenty million of these homes contain lead-based paint in a hazardous condition, paint which is peeling, cracked or chipped, paint that can be ingested by children, taken into their bloodstream, causing them severe health problems.

The problem of lead-based paint is particularly severe in my home State of Rhode Island. Forty-three percent of our housing stock was built before 1950, the time in which lead paint was universally used in painting homes.

But the problem of lead-paint exposure and lead-paint poisoning in children is not related to Rhode Island; it is truly a national problem. One in 11 children nationwide have elevated blood levels, and if you refer to the chart on my left, you can see that, for example, in the city of Baltimore, 22 percent of children age 1 through 6 have dangerously high levels of blood—Chicago, 12 percent; Davenport, Iowa, 18 percent; Denver, CO, 16 percent; Milwaukee, 36 percent; St. Louis, MO, 23 percent; my home State, Providence, RI, 28 percent of children tested have higher than normal levels of lead in their bloodstream. This is a nationwide problem. It is a problem particularly severe in the older urban areas of the country, but not exclusively there.

Again, one of the key factors is housing stock of the community. Housing built before 1950 typically have extensive lead paint still residing in these homes. If you look across the country, there are States everywhere that have significant totals of housing built before 1950. For example, in Illinois, 36 percent of the housing was built before 1950; in Michigan, 31 percent; in New York, 47 percent.

All of this points to an extremely important public health problem. It is important because childhood lead poisoning has a profound health effect on children, a profound educational impact on children, their ability to learn and their ability to develop intellectually. Children with high blood levels can suffer from brain damage, behavior and learning problems, slow growth and hearing problems.

Children with a history of lead poisoning frequently require special education to compensate for intellectual deficits and behavior problems. In my State of Rhode Island, officials believe special education services are 40 percent higher among children with significant lead exposure, and in 1990 dollars, it costs roughly an additional $10,000 to provide special education services to a child.

By failing to eliminate the hazard of lead in homes, we are harming not only the children directly, but we are also incurring huge additional costs for education and health care. This is truly a problem that we must address, and we have to address it with the resources necessary to address this problem effectively.

Mr. President, childhood lead poisoning is a significant health, educational and fiscal issue. We must do everything to eliminate this lead-based paint hazard to our children. By providing sufficient funding to the HUD's Office of Lead Hazard Control, which has the primary responsibility for addressing this hazard in housing, and since 1992, the Office of Lead Hazard Control has been a highly effective component of the Federal Government's effort to address childhood lead poisoning.

Through its grant program, this office has provided grants to State and local governments to reduce the exposure of young children to lead-based paint hazards in their homes. Specifically, they have given grants to privately owned homes, to low-income occupied, and rental housing, all in an attempt to help them eliminate the source of lead poisoning in children, the most common source, and that is lead paint within homes.

Since 1993, $385 million has been awarded to 30 States and the District of Columbia. These grants have helped abate or mitigate lead-based paint hazards in 50,000 homes where young children reside. Regrettably, this is just, in effect, the tip of the iceberg, because there are so many homes that have these particular hazards to children.

In addition to helping mitigate and abate lead exposure in homes, they have also supported programs to test children for lead-based paint exposure, and also to test the homes. All of these efforts together have helped in some small way to eliminate this problem, and I have had the opportunity in my own home State of Rhode Island to visit and look at the efforts that are undertaken to eliminate these exposures to children. They are important.

What is most important is ensuring that we have the resources so that we can protect the health of all of these young children. As I stated before, this is a problem that is terribly frustrating. We know that children, if they ingest lead into their system, will suffer some type of health effect. This health effect will usually result in poor intellectual development and behavioral problems. We will be paying later through special education and through

the lifetime of these children who then become adults.

We can at this point take an effective step to ensure that these problems are addressed. It is preventable. It is a pediatric disease we can prevent if we simply get the lead out. My amendment this evening will increase the resources to the Office of Lead Hazard Mitigation so that we can, in fact, help local communities ensure that the housing these young children are living in is lead free.

Oftentimes, the families of these children have no choice. They must go to homes that is the best available housing, but in providing a shelter for their child, in some cases unwittingly they are exposing their child to a hazard which will claim not only their health, but also their intellectual development.

I urge all of my colleagues to support this amendment. I am prepared to yield to the chairman at this time.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER (Mr. ALLARD). The Senator from Missouri.

Mr. BOND. Mr. President, I commend the Senator from Rhode Island because there is no question about the dangers of lead-based paint, what hazards they present. This is a critical program. The program is funded at $60 million. The Senator's amendment will increase it to $70 million.

There is a great need to reduce lead-based paint hazards for children. As the Senator has pointed out, some of the statistics of lead-based paint and the dangers in some of our more mature urban areas is really frightening. I believe the figures are that there are some $3 billion in housing rehabilitation needs existing out there to address all of the lead-based paint problems in the country.

It is our desire to accept the amendment on this side. The funding will be taken from the overall CDBG funding of $4.75 billion, which is $75 million over last year's level. We are willing to accept it on this side.

Ms. MIKULSKI. Mr. President, I, too, concur with the chairman. I thank the Senator from Rhode Island for his leadership. The facts speak for themselves. The situation in Baltimore of 22 percent of children in Baltimore city have some type of lead in their blood, this is a serious issue. I won't go into all the public health aspects and pediatric consequences this late. But I will tell you what it means.

It means lower intellectual achievement. It means a lethargy, a sluggishness that is perpetual. Unless the child has their blood chelated, and if you go into Johns Hopkins and you are going to have your blood chelated because there was lead paint dust on your mom's kitchen table that kind of got mixed up with after-school cookies, then it is going to cost $8,000 in Medicaid to clean out your blood.

Even if we can clean that blood out, we can't necessarily clean out the consequences that have already set this child back, particularly in cognitive development.

I thank the Senator from Rhode Island for raising this, to move it up.

I am glad we can finally accept it with an offset. I asked that I be a cosponsor of the amendment. And we know that we need more research. We need the type of licensed people to be able to clean out the lead paint and protect our children. I view this as an important public health, get-behind-our-kids initiative. I look forward to just accepting it and defending it in conference.

The PRESIDING OFFICER. Is there further debate on the amendment?

The question is on agreeing to the amendment.

Without objection, it is so ordered.

The amendment (No. 3203) was agreed to.

Mr. BOND. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. BOND. I thank the Senator from Rhode Island.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

AMENDMENT NO. 3204

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

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

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Nebraska [Mr. KERREY], for himself and Mr. HAGEL, proposes an amendment numbered 3204.

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

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

The amendment is as follows:

On page 93, between lines 18 and 19, insert the following:

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

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

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

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

(B) is conducted in consultation with interested States;

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

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

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

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

Mr. KERREY. Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. KERREY. Mr. President, I am offering this amendment together with my colleague from Nebraska, Senator HAGEL, to delay implementation of a rule that has been promulgated by the Environmental Protection Agency. This delay would be required until the agents review existing scientific data to determine whether there is ample evidence to support the rule.

Mr. President, this rule, together with the rule on lead, is there to protect Americans, to give us safe drinking water. Unlike lead, however, copper is an essential element and is regulated in a much different fashion. I intend with my statement to lay before the body an appeal.

Nebraska has an unusual situation. Perhaps other States do have a similar situation. But ours is essentially this: The Environmental Protection Agency has a limit with their rule of 1.3 milligrams per liter. There isn't a single city in Nebraska that has 1.3 milligrams per liter. Here is the problem. In some communities, the water level is sufficiently acidic if it remains in the pipes for 6 hours or longer. When you turn the water on, you will get more than 1.3 milligrams per liter. Run the water for a minute, and the water drops below 1.3 milligrams per liter.

The EPA is saying, it does not matter. The EPA is saying, ''We test the

water. It comes out of the pipe immediately. It is over 1.3 milligrams; therefore, you have to make investments, substantial investments.''

Hastings, NE, is having to invest about $1 million initially, and $250,000 per year. Sixty communities are being asked to make substantial investments in their water systems to remove copper from their water, even though not a single citizen in Nebraska is getting sick—not a single person. I emphasize this.

The EPA comes into Nebraska and says, ''You are right, Senator, nobody is getting sick.'' I say, ''Wait a minute, what is the Safe Drinking Water Act for?'' They say, ''Well, it is to make the water safe.'' I say, ''The water is safe, is it not? If somebody was getting sick, then we would have unsafe water.'' They say, ''Yes, that is right. But we have established 1.3 milligrams per liter as the level allowed.'' And even though there is not a single community with 1.3 milligrams per liter—if it sets in the pipe 6 hours—even though it is flushed out immediately, and even though the State public health people are willing to implement a program of public education to make sure they stay below 1.3 milligrams, the EPA says, ''It doesn't matter.''

Unfortunately, Mr. President, this has become one of those litmus test issues. I have talked to many people in the environmental community. And they have said to me, ''Gee, Senator, you can't put this on this bill because it is another rider.'' They compare it to the 1995 bill—I guess it was 1995 or 1996—the year when a lot of riders were attached. ''We don't want another rider.'' I said, ''Well, what does that have to do with anything? Do you think the public health data supports what you are trying to do in Nebraska? Is there a reason?'' They say, ''No, it doesn't matter. What we are talking about here, Senator,'' they say, ''is politics. We don't disagree with the public health aspect of this.''

Mr. President, I ask unanimous consent that two studies be printed in the RECORD, both done by the Centers for Disease Control, that say there isn't a problem.

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

INTERIM TRIP REPORT: CU HEALTH EFFECTS IN DELAWARE, 1996

DATES AND PLACES

Washington, DC: Feb. 12.

Dover, DE: July 10–12, July 29–Aug. 7, Nov. 7–8.

BACKGROUND

Copper is an established gastro-intestinal irritant which has been documented to cause nausea, vomiting, stomach cramps, and diarrhea in humans. The lowest level at which these adverse effect occur has not been well defined. Following amendments to the Safe Drinking Water Act in 1986, EPA promulgated a revised standard for Cu. The new copper standard required action, such as the installation of corrosion control measures, when the highest 10% of first morning flush household tap samples exceeds 1.3 mg/1 for a given water distribution system. During a state-wide survey of water systems in Delaware in 1995, 35 systems exceeded the action level for copper. Thirteen of these systems had 10% of their samples higher than 5.3 mg/1, the EPA's LOEL (lowest observable effect level).

Out of concern for the health of individuals consuming high levels of copper, and to utilize the unique social and geological conditions in Delaware to better document the consequences of such exposure. Delaware Health and Social Services contacted CDC for technical assistance. Many small communities in Delaware have older houses with copper pipes and utilize untreated, acidic groundwater sources from high silica soils. The results of this collaborative effort are presented herein. Note that data collection is ongoing and the results presented are those of a work in progress.

PRINCIPLE PERSONS MET

EPA: Jeff Cohen, Office of G.W. and D.W.; Ken Baily, ORD; Bruce Mintz, ORD; Ed Hoddum.

Delaware: Ed Hallock, Barbara Ashby, Raymond C. Davidson, and Donna Stulir, Office of Drinking Water, Health and Social Services; Gerald Llewellyn, Dir. of Public Health, Health and Social Services; Mahhadeo Verma, Director, Public Health Laboratory; and Christopher Zimmerman, Dep. Dir., Public Health Laboratory.

METHODS

Those communities which has high levels of copper during the state-wide survey of 1995, had a population over 100, and which were suspected of not having installed adequate corrosion control measures as of June, 1996 were included in the study. Because of the widespread installation of corrosion control systems in the preceding year, only 4 communities met this criteria. One additional trailer park which not in violation during the 1955 survey but which had older homes with acidic water was also visited. All household in the area with homes built before 1980 were visited.

Contacted households were given a copper free container and asked to capture the first water of the day out of whichever tap they usually drank on the following morning. Participants were asked not to run any other taps and not to flush their toilets in the morning until after they had collected the water sample. On the morning after the bottles were handed out, samples were picked-up by investigators, stored in a cooler, and taken to the State Public Health Laboratory by 1 PM.

Households with > 5.0 mg/l copper in the first flush sample were revisited and interviewed. For each of these ''High Copper'' households, 2 neighborhood matched ''Control'' households were interviewed. Potential control households were those with less than 0.5 mg/l copper in the first flush water sample they had provided. A copy of the interview form is attached.

To attempt to estimate individual doses, all ''High Copper'' individuals and 10 individuals from ''Control'' households were asked to collect a daily water intake sample in a provided bucket. To do this, each time a person ingested coffee, or water, or any other drink containing water, they were asked to put an equal volume, taken from the same tap at the same time, into a bucket. Houses were also revised at the end of the study to obtain a second first flush water sample to help confirm that their exposure status did not change over the course of the study. Blank samples consisted of bottles filled with store bought distilled water. Some bucket samples were shaken and two bottles were filled to serve as duplicates. The laboratory was blinded to the cohort status and the sample type (first flush vs. blank vs. bucket) by a sample numbering scheme. Duplicate samples were separated in the numbering sequence.

Households were contacted by phone once per week over a period of 12 weeks between August 5th and October 21st. Interviewees were asked, ''Has anyone in your household been ill during the past week?'' If the answer was yes, a questionnaire regarding patient symptoms was completed. No individuals were ill with the same symptoms for more than one phone interview. A copy of the illness inquiry form is attached.

Households that were called 3 times without an answer were considered ''not contacted'' for that week. Households who departed for the season or asked to no longer be contacted were terminated and information from the household was included for those person-weeks during which successful phone contact took place. Weeks in which interviewers neglected to call households were also excluded from the analysis.

Self-reported nausea, vomiting, stomach cramps, diarrhea, and constipation were all defined as being consistent with copper toxicity (CCT). Having acute nausea and/or vomiting alone or with a headache, or any 3 of the 5 symptoms consistent with copper toxicity was defined as indicative of copper toxicity (ICT).

RESULTS

Cohort selection

867 houses were approached and 365 successfully contacted (42%). Of those, 7 (1.9%) refused to participate, 32 (8.8%) drank bottled water exclusively, and the remaining 326 self-reported tap water drinkers were asked to collect a first flush sample. Forty-seven households (14.4%) did not return the sample bottle. Of the 279 samples collected, 23 were above 5.0 mg/l copper.

Of these 23 high copper households, 3 could not be re-contacted, and 3 decided that they did not drink the water by the time they were re-contacted. 17 high copper households were enrolled in the study. During the course of the study, 2 households began drinking bottled water, 1 used a RO unit which had been by-passed during our initial sampling, and 1 pregnant woman was advised by the investigators to drink only bottled water. Thus, 13 households and 40 individuals were followed over the entire course of the study. Of the 40 enrolled control households, 3 acquired filters during the course of the study and 7 reported beginning to use bottled water exclusively. These control households were not excluded from the analysis since the new water source did not change their copper exposure status. Two control households and 1 ''High Copper'' household asked to be dis-enrolled during the study.

Water

The average ''High Copper'' household first flush concentration was 7.21 mg/l Cu among the 17 households enrolled. Nine bucket samples were collected from nine individuals. The average first flush concentrations for these people was 7.00 mg/l Cu while the average daily intake value was 2.91 mg/l Cu. Thus, average intake was 41% of first flush values. These 9 people ingested an average of 2.3 quarts per day according to our bucket collection procedure.

Health

A summary of the weekly phone surveillance results is presented below.

Parameter	Control	High Cu
No. of households	40	13
No. of individuals	102	40
Person/week-phone contacts as a % of attempts	818/1127 (72%)	346/413 (84%)
Illness events (all)	26	15
Persons ill at some time during study	20 (19.6%)	11 (27.5%)

Parameter	Control	High Cu
Cases consistent with Cu toxicity (CCT)	31	9
Cases CCT/all person-weeks	31/818 (3.8%)	9/346 (2.6%)
No. of people with CCT at some point	13 (12.6%)	8 (20.0%)
Cases indicative of copper toxicity (ICT)	22	4
Cases ICT/all person-weeks	22/818 (2.7%)	4/346 (1.2%)
No. of people with ICT at some point	9 (8.8%)	4 (10.0%)

Other findings

It is possible that more people (as a fraction of the population) consume high levels of copper (>5 mg/l) in their water in Southern Delaware as anywhere in the U.S. Therefore Gerald Llewellyn and Laurie Cowen of Delaware's Dept. of Health and Social Services searched the state databases to look at the incidence of Wilson's Disease, an illness previously associated with copper ingestion. Between 1979 and the present, only one case of Wilson's Disease was reported in the State and that case occurred in the Wilmington area where systems have little problem with corrosion control. This is a Statewide reported rate of .08 illnesses per million population per year. Nationally, approximately 15 deaths per year were recorded between 1979 and 1992 with Wilson's Disease being listed as the primary cause. Between 1988 and 1990, less than 700 hospital discharges were estimated to occur nationally via the NCHS Hospital Discharge Database (less than 2.8 hospitalizations per million population per year). Given the rarity of Wilson's Disease and the potential for incomplete reporting of this illness, little significance can be attributed to Delaware's apparently lower rate of the illness.

DISCUSSION

While the study reported herein included far fewer households than initially intended, there seems to be no difference in the symptoms typically associated with copper toxicity among the two study groups. If copper is a gastro-intestinal irritant at the levels observed in the 40 individuals included in our study, the effect was not observed here. The most specific and direct indicator for a persistent irritant would be displayed by contrasting the persons meeting the most specific case definition divided by the number of person/week observation periods, ''Cases ICT/all person weeks'' in this study. Individuals in the ''High Copper'' household had a statistically similar, but lower rate of symptoms ''Indicative of Copper Toxicity'' than did the individuals in the ''Control'' households.

There are three possible explanations for this finding.

(1) People drinking water with an average of 2.7 mg/l Cu and with a first flush level of 7.2 mg/l are not ingesting enough copper to develop G.I. symptoms.

(2) The ''High Copper'' exposure level in this study is enough to make people sick, but not the people in this study.

(3) These copper levels do make people sick, but the study failed to detect this fact.

Addressing these issues in reverse order, while the sample size in this study was small, it is likely that a major effect from copper ingestion would have been detected. People displayed symptoms, like those expected in copper toxicity cases (ICT), during approximately 2% of the person weeks surveyed (2.7% in control households, 1.2% in high copper households). Thus, if the effect was missed due to a lack of power in the study, the effect is likely to be less than 3 episodes of nausea or vomiting per person per year, which is not consistent with the ongoing symptoms of copper toxicity typically described in the scientific literature. The final data set was sufficient in size to detect a relative risk of 2.5 in ''cases ICT/all person weeks'' and a relative risk of 3.5 in the ''number of people with ICT at some point'' with 95% confidence and 80% power. While self-described symptoms via a phone interview can produce lower quality data than some other methods, for exmaple, medical examinations, it is unlikely in this case that a systematic bias on the part of the interviewee or the interviewer resulted in an underreporting in the ''High Copper'' cohort. The interviewers were blinded to the cohort status of the study participants.

Explanation 2, that the study population was not susceptible to copper induced illness, is somewhat more problematic. People may be susceptible to copper for a short period and then acclimate. This study had very few transient participants and most households had been at their present location for months or years. Likewise, within a population, some individuals may be particularly susceptible to copper toxicity, realize that their water is making them ill, and change sources. Because households who reported not drinking their water were not enrolled in the study, the data here cannot address that possibility. Several people during the initial interview process reported becoming ill after moving to their present address and attributed their illness to their water. Several of these individuals lived in ''High Copper'' homes.

Explanation 1, that the ingested levels of copper in the study were not sufficient to cause illness, seems the most likely explanation, perhaps in conjunction with the self-exclusion bias described above. Given that the average intake was 2.4 liters with a Cu concentration of 2.9 mg/l, and given this level is below the EPA LOEL, this is not surprising. What is surprising is that, in perhaps the systems serving some of the most corrosive water in the U.S., studying just the older homes with copper pipes, no adverse health effects can be detected. Houses in the study were receiving water at 6 times the concentration of EPA's 90th percentile action level, and represented the 92nd percentile, of the oldest portions of the State's most problematic systems (therefore, perhaps the 99th percentile of their communities). Thus, it is unlikely that there is widespread acute illness in Delaware from the ingestion of copper in people's homes.

FINDINGS

(1) This study indicated that those people drinking the highest levels of copper identified in Delaware are not suffering adverse acute effects from this exposure.

(2) No evidence of Wilson's Disease can be seen in the state registry in this population with some of the highest water copper levels seen in the U.S.

(3) Average daily intakes of copper are not well predicted by first flush values. A time and volume weighed daily intake was typically 41% of the Cu concentrations found in the first flush samples.

(4) The bucket collection procedure employed here for estimating daily dose was easy and quantitative. Future studies should use urine collection techniques to confirm its accuracy.

RECOMMENDATIONS

To Delaware

Future inquiries regarding population concerns over Cu in drinking water in Delaware should be addressed with a one page summary of this study since it represents a best effort to identify the most problematic systems and households in the state. Susceptible individuals may exist and individual complaints regarding systems with corrosive water should be investigated and copper toxicity events reported to the CDC.

Many good reasons exist for promoting corrosion control measures independent of copper and lead toxicity. The results of this investigation should not be used by utilities to avoid undertaking prudent investments in municipal infrastructures or treatment processes.

Cooperation between the Department of Epidemiology, the State Public Health Laboratory, and the Drinking Water Program has been exemplary throughout this study. The study should be held forward as a model cooperatively and thriftily addressing public health concerns.

Phone monitoring efforts in future studies should remain directly under the supervision of the Delaware official with principle responsibility for the study.

To CDC

CDC should not conduct future studies to identify and quantify the copper LOEL in a stable domestic population without reports of symptomatic illness. It is unlikely that ongoing illness from copper exposure in drinking water is a major problem anywhere in the U.S. among domestic users. If the EPA LOEL of 5.3 is an accurate estimate of where health effects begin to be seen, this study indicated that first flush levels of 13 mg/l would be needed to inflict daily average tap water level of 5.3 mg/l Cu. No households in our study or the state-wide survey had such high concentrations of Cu.

the daily dose method employed here was appears to be effective and should be validated.

Support of the kind provided to Delaware in this modest study: (a) is a cost-effective way to produce valuable public health data, (b) established excellent ties for future cooperation, (c) is educational for both State and Federal participants who often have dramatically different perspectives.

INTERIM REPORT

Evaluating Gastrointestinal Irritation among Humans From Copper in Drinking Water, Lincoln, Nebraska (Epi-E94–73)—

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ABSTRACT

EVALUATING HUMAN GASTROINTESTINAL IRRITATION FROM COPPER (CU) IN DRINKING WATER, LINCOLN, NEBRASKA, 1994

Background: In 1993, Nebraska copper (Cu) drinking water levels exceeded EPA's action level of 1.3 mg/L Cu in 50% (19 of 38) of public water systems serving 3,300 to 10,000 people. The action level is based on gastrointestinal illness (GI) including vomiting, nausea, stomach cramps, or diarrhea. Officials at the state health department were concerned that Nebraskan's were suffering adverse health effects as a result of this exposure and requested assistance from the Centers for Disease Control and Prevention.

Methods: To determine if Nebraskan's were at increased risk of GI due to Cu concentrations in drinking water, we interviewed people living in homes having Cu levels (measured in 1993) of >3 mg/L (51 homes), 2 to 3 mg/L (54 homes), and <1.3 mg/L (42 homes). Case-subjects were those who had rapid onset of vomiting or nausea with abdominal pain during the 2 weeks preceeding interview. To validate the relationship between Cu and GI, we conducted a nested case-control study, resampling drinking water in the homes of 22 case-subjects and 27 age-matched control-subjects.

Interim Results: The risk of GI was greater for persons in households with drinking

water >3 mg/L (RR=1.65; 95% CI 0.63, 4.31) but not for persons in households with copper levels from 2 to 3 mg/L (RR=0.73; 95% CI: 0.24 to 2.17) when compared to individuals with copper levels less than 1.3 mg/L. The relationship was not confirmed in the nested case-control study ($OR_{>3\ mg/L,\ <1.3\ mg/L}$=0.44, 95% CI 0.8 and $OR_{2\ to\ 3\ mg/L,\ <1.3\ mg/L}$=0.11, 95% CI 0.02 to 0.62) because 1993 sampling results differed substantially from sampling results in 1994. The occurrence of GI was explained by weight loss (OR=8.30; 95% CI 1.56 to 44.11) and self-reported flue-like illness (OR=4.18; 95% CI 0.77, 22.78).

Interim Conclusions: These preliminary data indicate that at the time of the survey, people were not experiencing GI related to the level of Cu in their drinking water, even though 51 of the selected homes had Cu drinking water levels that were greater than two times the EPA action level the year prior to the study. We also noted that Cu concentrations in drinking water at the time of the study were far less than the levels measured one year earlier. We encourage further investigations of the health effects of copper in drinking water. We also encourage further work to evaluate the reproducibility of the sampling method recommended by the EPA to establish compliance with the drinking water standard for Cu and Pb.

Mr. KERREY. Mr. President, copper is a substance that at certain levels will cause gastrointestinal problems. That is the issue here. Unlike lead, it is a different sort of public health problem. Again, it is an essential element. Understand, that the estimated content in mother's milk in some cases will exceed 1.35—will exceed 1.3 milligrams per liter. You can imagine what the EPA would say if we gave them the authority to regulate mother's milk. Perhaps they would require some sort of contraption to be applied in order to make certain that babies are not getting a dose in excess of 1.3 milligrams, even though no scientific study, Mr. President, has concluded that there is a problem.

The EPA will say, remarkably, ''Well, the World Health Organization has a standard of 2.0 milligrams per liter, and 1.3 milligrams per liter is close.'' Two is almost twice of 1.3. It may look close if you are calculating the size of the deficit, but it is not very close as a multiple of 1.3.

They set a level, Mr. President, an arbitrary level, that cannot be supported by science. All we are asking for is delay. I would be willing to accept some change in the law, some report language that would enable Nebraska to say, ''We will, with our public health effort, make certain that no one in Nebraska is going to get sick. But, for gosh sakes, don't make these Nebraska communities invest millions of dollars in water treatment efforts.''

Some of these communities have very, very small budgets. You are asking them to invest substantial amounts of money even though there isn't a single person in their communities getting sick—no one. There is no public health problem. And what we are being told—we tried to get this amendment accepted. We tried to get EPA to change their rule. They said to us, ''We don't care. We don't care, Senator, that science demonstrates that 1.3 milligrams is not really supportable. We don't care that nobody in Nebraska is getting sick. We are not concerned.'' ''Please, do not offer this because of the political problems of another rider on this bill.''

Mr. President, this is one of the reasons that people like myself—that have supported the Clean Water Act and the Safe Drinking Water Act and the Clean Air Act—we struggle to sustain our support for this kind of effort because time and time again we find ourselves faced with a situation where common sense and science combine to say the EPA should not be given authority to require local communities to make these kinds of investments because there is no public health case that can be made to require them to do it.

This amendment, Mr. President, is propublic health and pro-environment. I, too, seek public health protections, and I seek environmental protections as well. Senator HAGEL and I see this as an amendment that says that money spent on threats that do not exist is money that cannot be spent to prevent actual hazards to health or the environment.

I am not seeking to overturn EPA regulations, and I am not seeking to instruct EPA on scientific issues on which myself and the legislative branch are not qualified to provide instructions. I am seeking, Mr. President, to have the EPA give adequate consideration, evidence from another Federal agency that is amply qualified in this respect, an agency, Mr. President, that is charged with ensuring public health and safety, and that is the Centers for Disease Control and Prevention.

Mr. President, whatever you think on this issue, we should all agree that the people of this country who are drinking the water and who are paying the bills should at least have a say in this matter. And they should have a say through their elected officials. The argument that comes from the EPA that Congress does not have the right or the responsibility to question regulations or to weigh in on regulatory debates is an argument that government should not be held accountable to the people.

Mr. President, that is an argument that I do not support. And it is an argument I hope we would all dismiss outright. But, Mr. President, beyond this argument—and there is a truly valid argument against that scientific basis for this EPA rule which I, tonight on this floor, challenge with this amendment. I challenge any of my colleagues to come to the floor and dispute the evidence that I offer.

The rule pertains to copper levels in drinking water, and the requirement that communities treat their water supplies to remove copper when it is present at levels higher than EPA's 'action level' of 1.3 milligrams per liter (mg/l). There are currently 60 communities in Nebraska that are being required by EPA to begin treating their water to remove copper. I have here in my hand two studies conducted by the federal Centers for Disease Control and Prevention that indicate the drinking water in these communities is safe, and is not causing any illness or adverse health effects. One of the studies was conducted in my state of Nebraska. However, the EPA will not consider these studies until they are peer reviewed and published. Fair enough, I say—they are scheduled to be published before the end of the calendar year, and likely sooner than that. So my amendment simply states that EPA wait until these studies are published, and that they review these studies, and any additional peer-reviewed data pertinent to this issue, to determine whether the CDC is correct, and perhaps this copper action level is not set at the appropriate level.

There is also a savings clause in my amendment that will allow any state that so chooses to continue to implement and enforce, if they desire, the copper treatment aspect of this rule. If a community or a state is currently treating its water supplies to reduce copper, or chooses to implement treatments based on copper levels, nothing in my amendment precludes them from doing so.

Mr. President, I support fully the efforts and the importance of the mission and the work of the Environmental Protection Agency. I support fully the Safe Drinking Water Act, the Clean Water Act, the Clean Air Act, and all the other acts under whose auspices the authorities of the EPA lie. However, I support these Acts based on the assumption that all the rules and regulations that are promulgated by the agency are based on sound science. But in this case—in the case of a copper action level in drinking water supplies—we do not have sound science at work. What we are seeing here is a level that has been set that cannot be supported by science—a level that even the federal Centers for Disease Control and Prevention, EPA's sister agency, says in at least two different studies causes neither illness nor adverse health effects. The CDC has indicated that in my home state of Nebraska, and in Delaware, copper in drinking water supplies that is in excess of EPA's action level does not cause any illness or adverse health effects.

But 60 small- and medium-sized communities in Nebraska are being forced to implement expensive water treatment activities to remove the copper from their drinking water. One community alone, Hastings, Nebraska, with a population of 23,000, has estimated the costs of this treatment at $1 million to start, and $250,000 annually thereafter. That is for one community alone. In the Village of Snyder, which has a population of 280, and an annual water budget of $31,000, the estimated cost to treat two wells is $30,000 for building modifications and equipment purchases, plus an additional annual cost

of $12,000 for chemicals, training, administrative, and repair and maintenance costs. For the first year, then, this figure represents $11,000 more than the Village of Snyder's annual water budget—or a total first year cost of $42,000. Multiply these figures and these hardships by 60 communities, we are talking about an inordinate amount of money to remove an essential mineral, a naturally occurring element, from drinking water when there are no known or associated adverse health effects at the levels that it is present at.

But that's not the most unreasonable aspect of this issue, Mr. President—because there is more. Here's the rub. The ground water that these public water supplies rely on for drinking water in these 64 Nebraska communities does NOT contain copper in excess of EPA's action level. As a matter of fact, none of the natural groundwater supplies in Nebraska exceed the copper action level as established by EPA. Not one.

The problem is the method EPA requires that States use when testing for copper. EPA requires that the water be tested only after being undisturbed for at least 6 hours—that is, the water must be sitting in the pipes and plumbing of a home for at least 6 hours, or overnight, before being tested. And while the water sits in these pipes, copper leaches out of the pipes, and the ''action level'' is exceeded. Why does this happen? It so happens that the acidity of the ground water in my state of Nebraska causes the copper to corrode, or to leach out when it sits in pipes for a long period of time, such as overnight. However, if you run this water for a few minutes before testing it, or before drinking it, the copper action level set by EPA are not exceeded.

But even the CDC has questioned this testing method. In one of its studies, the CDC states:

> We encourage further investigations of the health effects of copper in drinking water. We also encourage further work to evaluate the reproducibility of the sampling method recommended by EPA to establish compliance with the drinking water standard for Cu (copper) and Pb (lead).

But even beyond that, even at the levels that are coming out of these pipes now, and that the people of these Nebraska communities are drinking now, there is no incidence of illness or other deleterious effects from this water. My amendment will simply delay some costly requirements to remove copper from water that is not causing illness.

So the issue immediately at hand, at best I or anyone else can discern, is really an issue of testing. Despite the fact that none of the groundwater in Nebraska exceeds EPA's copper action level, the manner of testing required by EPA results in some communities actually exceeding the action level. Flushing for a few minutes prior to testing, or to drinking, would result in copper levels in the water that are below EPA's action level. And it is likely that an improved testing methodology will result in none of these water systems exceeding the copper rule. But until this is reviewed, we have no way of knowing.

Beyond the testing issue is the greater issue of the validity of the rule. No, I am not a scientist qualified to decide this issue, but some of the scientists that I have talked to about the issue agree that the science is insufficient to support EPA's action level for copper. Even government scientists who have studied copper their entire careers agree that the evidence just isn't there—and I'm talking about human nutrition scientists, not just the scientists who conducted the studies at the CDC. Scientists have told me that there is little evidence of chronic health effects caused by ingestion of copper at the levels we are talking about in our communities. There is even preliminary evidence that seems to suggest that elevated copper plays a role in reducing or preventing the incidence of osteoporosis, a disease which causes significant suffering, discomfort and associated medical problems, primarily in the elderly. What this underscores is the lack of definitive knowledge about this substance.

My colleagues in the State of Nebraska have tried to work with the EPA on this, and have tried to offer reasonable alternatives and solutions that will prevent costly and needless treatments from being required. My colleagues in Nebraska asked the EPA if it would be acceptable to implement an educational program to get folks in these communities to run the water for a time, to flush out the water that may have absorbed some copper, before drinking it. EPA said no.

My colleagues asked the federal Centers for Disease Control to study the issue in the state, and determine if the copper was causing any illness or adverse health effects. The CDC did this, and found no adverse health effects. EPA's response is that they cannot consider this data because it is not yet peer-reviewed and published. That is what bring me here now.

What frustrates me most about this is that I am a staunch proponent of the role of the federal government in protecting the safety and health of the people. This role is perhaps one of the greatest issues separating our country from many other industrialized and non-industrialized countries—we protect our nation from potential hazards in our food and drink, and from many other hazards that may befall us. But I am also a proponent of a government that is of, by, and for the people—of a government that serves to protect when protection is needed, but that does not intervene needlessly when intervention is not needed. Yet here we have evidence that a regulation promulgated by a federal agency will cost Nebraska communities millions of dollars, and will have no apparent impact on the health or safety of the people. So I am here to ask for a delay before costly treatment is required in these communities, a delay to allow these studies to be published, which they imminently will be, and a review of the data, to include these studies.

To help my colleagues understand how deeply flawed this action level may be, and thus, how inappropriate is the insistence of the EPA that these small Nebraska communities spend millions of dollars to correct a ghost problem, let me share with you some additional information on how copper in drinking water is treated elsewhere.

On an international scale, the World Health Organization, or WHO, which is recognized worldwide as the preeminent public health and welfare agency in both developed and underdeveloped nations, has declared that:

> In view of uncertainties regarding copper toxicity in humans, a provisional guideline value for copper of 2 mg/litre was established in the 1993 WHO guidelines for drinking water quality.

The WHO further states that:

> A copper action level of 2 mg/litre in drinking water will be protective of adverse effects of copper and provides an adequate margin of safety. It is also noteworthy that copper is an essential element.

This provisional, international action level for copper of 2 mg/l is set at a level that approaches twice EPA's action level of 1.3 mg/l. Yet EPA cites this level as evidence that their level is ''not far off'' from the WHO level, and thus is supportive of their 1.3 mg/l level.

Mr. President, there are two last, astounding pieces of information. The National Research Council of the National Academy of Sciences has established a recommended daily allowance for copper of 3 mg, with an adult toxic dose of 100 mg. These recommendations are for adults. But more astounding is the following information, published in peer reviewed literature: ''Copper levels of human milk range from 0.15 to 1.34 mg./litre.'' Human breast milk, Mr. President, contains up to 1.34 mg/litre of copper, which is in exceedance of the EPA copper action level.

There is much more evidence to support my contention, Mr. President, that there is cause to review the data and perhaps revise EPA's action level for copper, and I am more than willing to share it with my colleagues. At the moment, however, there is great urgency in offering this amendment and approving it to prevent needless costly treatments from being implemented in many small American communities that will be more harmed from the economic impacts of this rule than from the potential adverse health effects from copper.

The EPA says, ''We don't care''—the EPA says, ''We don't care. This is a political issue.''

I say wait a minute, what is the purpose here? ''We don't care.'' Reject it out of hand, ignore the scientific evidence, and say we are concerned that this is one of these riders. They are not

willing to come and debate each rider on its merit. They say ''rider''; we rule out of hand.

I would love to have Administrator Browning come to Hastings, NB, and explain that to my citizens in Nebraska. She would not be able to do it. That is what I have to do. I have to go home and explain these rules. When I go home and explain these rule to these 60 communities where nobody is getting sick, why they have to spend millions of dollars to invest in their water systems, they say this doesn't make any sense at all.

So I invite any Senator who opposes—I would love, if they take the EPA position—come out to Hastings, NB. Come out to my State and talk to the community and explain to them why, if nobody is getting sick, I have two CDC studies saying there is no health problem and yet the rule still is going to be enforced.

As I said earlier, I am not looking to overturn the EPA regulation. Indeed, in this amendment there is a savings clause that allows any State that so chooses to continue to implement and enforce the copper treatment aspect of the rule. If the communities—or State, is currently treating its water supplies to reduce copper, or chooses to implement treatments based on copper levels, nothing in my amendment precludes them from doing so.

I see both the Senator from Montana and the Senator from Alabama. It looks like they have an amendment. I would like to talk longer, and I apologize to the Senator from Missouri and the Senator from Maryland. I know both they and I would like to go to sleep. I would prefer a healthier debate. Unfortunately, what will happen is, we will talk tomorrow, we will have 2 minutes equally divided, the opponents will offer some reason to oppose this amendment, and everybody is likely to walk down and oppose it.

What will happen is, I will have millions of dollars' worth of investments that will have to occur and there will be a deterioration of support for any regulation of this kind.

I am willing to stop and allow the Senators from Montana and Alabama to offer their amendment. I don't know how long they will take.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I will tell you briefly why this amendment is going to have to be opposed and why I think it will be defeated and move to table it, because we do have other amendments to go on to tonight.

Obviously, the Senator can seek the floor later on if he has not finished.

If he has finished with his argument, I am happy to respond briefly.

The chairman and/or ranking member of the Environment and Public Works Committee will be here tomorrow to express their opposition, and I will print in the RECORD tonight the letter from the Environmental Protection Agency which says the EPA is strongly opposed to this amendment.

Unfortunately, Mr. President, the Senator has some compelling arguments. I sympathize with his frustration, but the EPA said, ''We believe it is unnecessary, inconsistent with the policy requirements of the 1996 amendments to the Safe Drinking Water Act and harmful to the protection of the public health.'' He goes on to cite articles. He does state that, ''The State of Nebraska has yet to avail itself of several opportunities for substantial flexibility and assistance described herein,'' and the EPA Assistant Administrator, Robert Perciasepe, has offered to go to Nebraska and show up in Hastings. I think my colleague from Maryland and I will urge him in the strongest possible terms to coordinate his schedule with yours and go to Hastings and other towns to answer.

But the fact of the matter is that there is a strong objection by the EPA to this. That objection is supported by the members of the authorizing committee. In our appropriations measures, we have not, we do not, and we will not take authorizing measures or legislative matters which are strongly opposed by the authorizing committee. We believe as a courtesy to the committees of jurisdiction that we should not do it. We have not done it and we don't intend to do it.

Mr. KERREY. Mr. President, I guess—as I said, I am willing—I don't know how long the Senator from Montana and Alabama want to talk. I intend to talk further. I appreciate what will happen tomorrow is, there will be 2 minutes equally divided and Senator CHAFEE and Senator BAUCUS will come down here and they will say, ''We don't necessarily disagree with you but we have a letter from the EPA and they are saying for rules''—blah, blah, blah—''we don't care that there is no public health problem. We don't care that nobody is getting sick, and we are willing to be flexible.''

Well, I appreciate you are willing to be flexible, but the problem is, we don't have a public health problem. What are you talking about, you want to be flexible? Thank you, Mr. Perciasepe. I appreciate you being willing to visit these communities, but I have 60 communities you are asking to spend millions of dollars. You have a rule that you are going to enforce it even though there is no public health problem.

I know we have a dilemma here. It is 10:30 at night and the unanimous consent procedure requires me to talk for however long I am prepared to talk, and then we will have 2 minutes tomorrow. I will have 1 minute, Senators CHAFEE and BAUCUS will come down here and they will say whatever, and this thing will get knocked out.

Mr. President, I appeal to my colleagues, this is not something that is a small item. Nobody is going to walk down here. I suspect the Senator from Missouri will not stand up and say that there is a compelling public health reason why Nebraska citizens and their communities should have to make these investments. EPA doesn't. They don't make a case that it is a public health problem. They don't come to Nebraska and say, gee, there is somebody getting sick that we haven't noticed.

Copper is different from lead. We are not talking about something that has the dangerous properties of lead. This is an essential element. This is an element that is contained in mother's milk, for gosh sakes. And in some cases the mother's milk is at a level higher than what the EPA will allow in drinking water.

Nebraska is being forced to sue the Environmental Protection Agency because the Environmental Protection Agency is unwilling to be flexible. I seek a remedy to this, Senators. You are saying you don't accept the amendment, fine. I am prepared to talk, then, further, because I want to make certain that Nebraskans understand what is at stake here—that even though nobody is getting sick, even though there is no public health problem, even though there is no safety issue at all in our State, it doesn't matter; the Federal Government is still going to require and this Senate is going to say, ''Well, it is a rider, we will accept the EPA's recommendation, regardless. We will vote to table or we will vote no on the amendment, we don't care. It doesn't matter.''

It seems to me that what we have here is a reasonable request by a State that has an unusual situation that deserves to be remedied. It is not enough for the EPA to say,''We are willing to be flexible.'' It doesn't work. Their flexibility still, at the end of the day, will say, ''You will have to get your copper levels down to 1.3 milligrams per liter in the first burst of water that comes out of the faucet,'' even though nobody in Nebraska is getting sick, even though no faucet is at 1.3 milligrams per liter. Only the first burst has the problem.

I go back to my statement here and continue.

Mr. BOND. Mr. President, I might ask the Senator from Nebraska. He obviously has made some very compelling points. It is noted there are Senators who are waiting to offer amendments. If he would be willing to do so, I would like to finish up the work of the Senators who are waiting, and I will move to table the amendment, and then I will offer to go back in morning business and afford the Senator from Nebraska as much time as he wishes, because we have heard the compelling arguments—the situation is very clearly that with the authorizing committees opposing this, the agency opposing it, it is our policy not to accept these amendments on an appropriations bill. His arguments are made with a great deal of passion and common sense, but they are not going to be accepted, and he will have an opportunity to appeal to our colleagues in a colloquy or in discussions later this evening, or in the

1 minute tomorrow. Would that be acceptable to the Senator from Nebraska?

Mr. KERREY. Mr. President, I appreciate what you are trying to do, but I am not sure I understand what it is you are trying to do.

First of all, I ask the Senator from Montana, how long does he and the Senator from Alabama want to take?

Mr. BURNS. Mr. President, responding to the Senator's question, it will take me less than 5 minutes. I can assure the Senator from Nebraska that I will support his amendment.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Will the Senator yield so that I may have a letter printed in the RECORD?

Mr. KERREY. Mr. President, I will yield only for that purpose, without losing my right to the floor.

Mr. BOND. Mr. President, I ask unanimous consent that this letter from the U.S. Environmental Protection Agency be printed in the RECORD.

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

U.S. ENVIRONMENTAL PROTECTION AGENCY,
Washington, DC, July 9, 1998.

Hon. JOHN CHAFEE,
Chairman, Senate Committee on Environment and Public Works, Washington, DC.

Hon. MAX BAUCUS,
Ranking Member, Senate Committee on Environment and Public Works, Washington, DC.

DEAR SENATOR CHAFEE AND SENATOR BAUCUS: As you requested, this letter presents the views of the Environmental Protection Agency (EPA) regarding the draft amendment proposed by Senators Hagel and Kerrey to the Fiscal Year 1999 Appropriation Bill for VA–HUD and Independent Agencies, which amendment would prevent for an indefinite period of time the implementation of the portions of the Lead and Copper Rule providing protection from hazardous levels of copper in public drinking water supplies. EPA strongly opposes this amendment. We believe it is unnecessary, inconsistent with the policy directions and requirements of the 1996 Amendments to the Safe Drinking Water Act (SDWA), and harmful to the protection of public health.

The proposed amendment is based on the questions raised by the State of Nebraska on the validity of the science underlying the Copper Rule. These questions are said to be based on interim reports on recent surveillance studies performed in Nebraska by the Federal Centers for Disease Control (CDC), and in Delaware by Delaware's Division of Public Health. Neither of these studies has been peer reviewed or published. The interim findings on the level of adverse health effects reported for the CDC Nebraska study actually are consistent with the scientific data EPA relied upon to develop the action level for copper. That action level incorporates a margin of safety below the lowest level of adverse health effects, as required by SDWA. The interim findings of the Delaware study are based on a very small sample with low statistical ''power'' to identify health effects.

In the 1996 Amendments to SDWA, your Committee developed, and Congress and the President enacted, a requirement that standard setting under the SDWA must be ''based on the best available, peer reviewed science.'' This requirement is equally applicable to EPA's review and revision of existing standards such as the Copper Rule, which was finalized in 1991, as it is to the setting of new standards. EPA does not believe that the interim reports on these studies meet the test of scientific rigor required by the 1996 Amendments for the revision of any existing drinking water standard, or make a compelling scientific case to change the action level for copper. EPA is participating in planning further studies on health effects of copper, and is prepared to reevaluate the scientific basis of the present copper action level if appropriate.

In this regard, an article entitled ''Defining a Safe Level for Copper in Drinking Water'' was published in the July 1998 issue of Journal AWWA by Frederick Pontius, a staff member of the American Water Works Association. This article presents a review of available scientific research on the health effects of copper exposure, noted that ''USEPA's MCLG and action level for copper have been criticized as being either too low, or not low enough, depending on the health study cited,'' and concluded that a ''change in the copper action level would be difficult to justify based on feasibility of corrosion control treatment unless a better measure is developed for determining when optimal corrosion control for copper is being applied.''

The State of Nebraska has also expressed serious concerns about excessive costs and implementation burdens on affected communities from enforcement of the Copper Rule. However, the copper standard is framed as an action level. When public water systems exceed the level in 10 percent or more of the required samples, the State primacy agency is supposed to work with the systems to help them develop and implement a treatment optimization plan. Such a plan is not a ''one size fits all'' approach that seems to have generated exaggerated estimates of compliance costs cited for some Nebraska towns. Rather, treatment optimization is to address in the most cost effective way possible the specific conditions in the system that caused them to exceed the action level, and meet effectiveness criteria set by the State.

The 1996 SDWA Amendments give States additional flexibility to use the exemption process to phase in whatever tailored approach to treatment the State and water system agree to implement. Also, the Amendments provided for a new source of Federal funding, the Drinking Water States Revolving Loan Fund, to offer subsidized financing to water systems facing significant costs associated with implementing treatment. The State of Nebraska has yet to avail itself of any of the several opportunities for substantial flexibility and assistance described here.

I appreciate your request to present our understanding of this issue and the several workable, potential solutions available. EPA wants to continue working with the State of Nebraska to resolve this matter, and stands ready to provide hands-on technical assistance to demonstrate how the State can identify practical, common sense ways to help towns provide the important public health protections that compliance with the Copper Rule will bring.

Sincerely,

ROBERT PERCIASEPE,
Assistant Administrator.

Mr. KERREY. Mr. President, do I have the floor?

The PRESIDING OFFICER. Yes, the Senator from Nebraska has the floor.

Mr. KERREY. Mr. President, in that case, I would like to continue with my statement. Again, I don't mean to tie up the Senator from Missouri and the Senator from Maryland here unreasonably, I appreciate that I am, but this is a very serious issue in my State. We have a UC here that gives me very limited options. The unanimous consent puts me in a position where I have 1 minute tomorrow, and the authorizers are going to come down here and they are going to merely say, ''we object.'' They are not going to offer any science, or refute the scientific evaluation, or argue what the CDC has said. They are not going to present a case that 1.3 milligrams is reasonable. They are not going to refute statements about nobody getting sick in Nebraska, or they are not going to say what EPA is doing is reasonable.

We are left with a situation where the State of Nebraska is going to have to sue the EPA. That is what we are left with. Again, I am willing to step aside here and allow the Senator from Alabama and the Senator from Montana to do their work. I guess what you are seeking is an opportunity to go into morning business so you could all leave and I can stay here and talk. Is that basically what you are saying?

Mr. BOND. The Senator is correct. You have made a very compelling case. We have expressed our views. I was suggesting that other Senators also have amendments to offer. Quite frankly, the people who wish to hear this can read this in the RECORD. They will be able to do so. But there are other people waiting.

Mr. KERREY. I am perfectly willing to make an effort to accommodate. Unfortunately, I am in a situation where I don't feel like I am going to get much accommodation from the Senators in communities that are going to spend millions of dollars to invest in something that is going to produce no improvement in public health.

Ms. MIKULSKI. If the Senator from Nebraska will yield, the suggestion by the Senator from Missouri is not to deny the Senator from Nebraska from presenting his arguments. What it does do is give us a framework for moving on these other two amendments and it relieves us of our responsibility to conduct our business. It doesn't preclude the Senator from Nebraska from talking.

If the Senator will yield further, why would talking while we two are here accomplish what you want to accomplish, beyond what we have already discussed? I don't understand why you are objecting to morning business when we are not in any way asking you to give up your right to continue to speak.

Mr. KERREY. Well, my hope is that by listening to these wonderful arguments, there is going to be persuasion. You are saying that you want to move to table my amendment and leave and go into morning business, and then I will have 2 minutes tomorrow to persuade a majority of my colleagues, which is not going to happen. There is going to be no persuasion. Senator CHAFEE and Senator BAUCUS will come

down with 30 seconds each and they are going to say no, and they are not going to offer any arguments at all. They are not going to read anything into the RECORD or consider any arguments given. I appreciate that things get scheduled and bumped up against a late hour.

Ms. MIKULSKI. But why is it that speaking on the bill is different than speaking in morning business, if you want to continue to persuade?

Mr. KERREY. Are you basically saying you want to move to table my amendment and then walk out? Is that it? You will leave and we will say we are in morning business; is that the offer?

Ms. MIKULSKI. Is it the Senator's belief that the longer we stay, there will be a change in our position?

Mr. KERREY. Well——

Ms. MIKULSKI. Is that his hope?

Mr. KERREY. That is my hope.

Ms. MIKULSKI. Hope springs eternal, as does this evening.

Mr. KERREY. Mr. President, I am sort of teetering on the edge of how reasonable I want to be. I am appealing to colleagues. I have 70 communities in Nebraska that are facing substantial costs. There is no argument against this, other than that EPA opposes it. I don't hear any scientific argument against it or any public health argument against it. Earlier today, by a voice vote, the Senator from Arkansas and the Senator from Mississippi accepted a $500 million amendment to indemnify farmers in disaster aid—just like that—and it was accepted on a voice vote.

Here we are being told, no, we can't accept this amendment. EPA isn't saying we disagree with the science, or we disagree that it is an unreasonable rule in the case of Nebraska, or we disagree with any argument you offer; we are just going to enforce it. I say to the Senator from Missouri—and as you know, I am preaching to the choir here. The Senator from Missouri has faced this sort of thing in the past in Missouri as a Governor and as a Senator.

I am seeking some sort of remedy other than merely voting this amendment down. Had this occurred earlier in the day, my colleague, Senator HAGEL, would be on the floor with me, arguing with much passion in favor of this amendment, that it is reasonable, and that science supports what we are trying to do.

Again, I say to the Senator from Missouri and the Senator from Maryland, I know it is 10:45, and I would rather not be here either, but that is the hand I have been dealt. If it were earlier in the day, there would be more debate on this. I would love to have Senator CHAFEE and Senator BAUCUS come and tell me why this rule should be enforced, tell me why what I am offering, with a savings clause that enables any State that wants to, to continue to enforce 1.3 milligrams per liter—allow them to continue to do that—is not a reasonable thing. Or some other alternative, or some language that would enable Nebraska to engage in a public health effort. Let us spend the money per year to engage in a public health effort to make certain that these communities are keeping their drinking water levels safe.

I am just appealing to my colleagues to look for an alternative. You all have the votes and you have the way to knock this thing out. But there must be some way to give me some assistance with the EPA other than to say they are going to give me flexibility. You know what their idea of flexibility is at the end of the day.

Ms. MIKULSKI. If the Senator will yield, what would he suggest?

Mr. KERREY. I would accept report language that would say the State of Nebraska would be allowed to make a public health investment in those communities where there is in excess of 1.3 milligrams that first minute. I would allow Nebraska to be permitted to experiment with the different testing methodology—anything that would give me something that would say to the communities in Nebraska that the Federal Government is prepared to be reasonable, other than just surrendering me to the good wishes of the EPA, saying they are willing to come out and be flexible. We all know what that means. I would be willing, I say to my colleagues, to accept report language and not put this amendment up for a vote—accept report language that made an attempt to rectify this situation. You know what we are dealing with. I see heads shaking there. Are you saying no?

Ms. MIKULSKI. It would have been useful if perhaps the Senator had suggested this earlier and we could have consulted with the authorizers. Our hands are shackled, really, because of the authorizers strongly opposing the amendment.

Mr. KERREY. I appreciate that. I didn't know at 8 o'clock this morning that we were going to be taking this thing up.

Ms. MIKULSKI. Could the Senator talk to the Senator from Montana, Mr. BAUCUS, and the Senator from Rhode Island, Mr. CHAFEE, to see if they would accept some report language, and come back and discuss the report language?

Mr. KERREY. I would agree to in some sort of consent agreement. I don't want to surrender the floor and then end up with my amendment tabled with no capacity to appeal for some sort of flexibility in law or report language that would enable me to satisfy the concerns that I have. I think what you are asking for is reasonable. I would be willing to talk to Senator CHAFEE, Senator BAUCUS, and Administrative Browner, and see if they would accept some kind of report language that would do precisely what you are saying.

I would say to the Senator from Missouri that I would be willing to go right this minute to the cloakroom and make those calls. But I would like to resolve it without having my amendment tabled, because I know I am going to have to bring a report back to you and say what they said and see if you would agree with it.

Mr. BOND. If the Senator from Nebraska would yield, we are willing to try to be as helpful as we possibly can. I have outlined for him the position in which we find ourselves. We are not going to be able to accept the amendment that is proposed. We have gone through that. The EPA has filed a letter that is now on the record objecting to it. That is not going to change.

The Senator can speak as long as he wishes. But he is not going to change that position from my standpoint.

If the Senator is willing to work with us—we can't do report language here. We can do report language in the committee and attempt to work with him on getting report language and seeing what we can encourage the authorizing committee to do. I have said we would be willing to ask the EPA Administrator to go out there. We don't direct and we cannot control the EPA. I think that is clear. You know what the political situation is.

Frankly, continuing to talk on the floor tonight when others are waiting to offer amendments is not going to encourage us to work with the Senator from Nebraska on the very compelling problem he has. But we would be willing to help him. But talking about it on the floor at greater length is not going to further the process of cooperation and assist us in working out report language or some alternative means by which we can encourage the EPA to come to an agreement with the State of Nebraska.

Mr. KERREY. Mr. President, I appreciate that. The Senator from Missouri knows that a couple of years ago we did the very same thing with the radon rule the EPA had and the Senator from Missouri cooperated. We knew what the impact was going to be, and we delayed or withheld the money from EPA to enforce a radon rule that we all knew was unreasonable. We did that because they could not make a scientific case that the rule that they had was going to increase public health. We withheld their money. As I recall, the Senator from Missouri supported that.

I appreciate what you are saying. I understand I am pushing here to a point where you are saying that if I continue doing this I am going to get less than I would likely get by trying to work cooperatively. I regret that at 11 o'clock at night that I am in that position. I am prepared to call Senator CHAFEE and Senator BAUCUS to ask them. I am prepared to talk to them to see if there is some flexibility to achieve it either in report language or in some fashion.

But I appeal to my colleagues. The flexibility offered by the EPA, as you know, is not sufficient. They have the law on their side. They are going to enforce 1.3 milligrams per liter. They are

not going to give us any testing flexibility. They are going to force 1.3 milligrams per liter even though nobody is getting sick. I have communities investing enormous amounts of money. Again, you are hearing this for the seventh or eighth time, this argument.

Again, I would be willing to allow this thing to come to a painful close. The Senators are saying if I talk to Senator CHAFEE and Senator BAUCUS that they are willing to consider some sort of report language and this thing will move in committee if I can get some report language.

Mr. BOND. In the conference.

Mr. KERREY. But not on this bill.

Mr. BOND. Mr. President, we don't have further report language we can offer.

Mr. KERREY. In conference, you would be willing.

Mr. BOND. I thought we tried to emphasize, we are willing to do anything we can the next opportunity we have. We have already stated on the floor that we would urge the assistant administrator to come out. He has talked in his letter about flexibility being available for the State of Nebraska. The EPA contends that there are a number of remedies available.

I would certainly urge my colleagues on the Environment and Public Works Committee to work with you and the State of Nebraska to see if there are accommodations that can be made. We can work with you. And based on what we learned from the authorizing committee—the majority and minority—we might put language in the report directing or asking that steps be taken. But, frankly, that is not going to be bill language. But we are willing to work with you and with the ranking member and the chairman of the authorizing committee.

Mr. KERREY. First of all, let me say that I appreciate the good-faith effort to try to accommodate this. I know that both the Senator from Missouri and the Senator from Maryland are in a bind. You were facing the situation in your State before. And I know it has been frustrating. I have spoken with both of you about these kinds of regulations and how they can decrease our citizen support for environmental regulations.

I have all week long been approached by environmental organizations begging me not to offer this amendment, and not a single one of them, by the way, being able to offer a single shred of evidence as to why this rule ought to be enforced—not a one of them—just saying, ''for political reasons, we would rather the Senator not offer it.''

Ms. MIKULSKI. Will the Senator yield for a question without in any way yielding the floor? The talented staff has come up with an idea that might help. We would like to discuss it with you by going into a quorum without you losing your right to the floor. This is no trick.

Mr. KERREY. I would be willing to do a UC and let the Senators from Montana and Alabama go to theirs.

Ms. MIKULSKI. I would like you to hear this proposal and see if it would be acceptable to get out of the logjam that we are in right this minute.

Mr. KERREY. I don't object to that. I just want to make it clear that I have a sufficient amount of trust in both the Senator from Maryland and the Senator from Missouri that I would be willing to allow the Senators from Alabama and Montana to offer their amendments. I am not even that concerned about that. The problem is—I know I need to talk to both of you to try to get something and, when I talk to Senator CHAFEE and Senator BAUCUS, that I have instructions as to what it is I am trying to do.

Do we need to go into a quorum call? I would be prepared to let them go ahead, just as long as I get back to this thing when they are finished.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the pending Kerrey amendment be laid aside for not more than 5 minutes, and that the Senator from Montana offer his indemnification amendment, and that at the conclusion of that amendment we return to the amendment of Senator KERREY.

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

Without objection, it is so ordered.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized.

AMENDMENT NO. 3205

(Purpose: To provide for insurance and indemnification with respect to the development of certain experimental aerospace vehicles)

Mr. BURNS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Montana (Mr. BURNS) proposes an amendment numbered 3205.

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

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

The amendment is as follows:

On page 93, between lines 18 and 19 insert the following:

SEC. 4___. INSURANCE; INDEMNIFICATION; LIABILITY.

(a) IN GENERAL.—The Administrator may provide liability insurance for, or indemnification to, the developer of an experimental aerospace vehicle developed or used in execution of an agreement between the Administration and the developer.

(b) TERMS AND CONDITIONS.—

(1) IN GENERAL.—Except as otherwise provided in this section, the insurance and indemnification provided by the Administration under subsection (a) to a developer shall be provided on the same terms and conditions as insurance and indemnification is provided by the Administration under section 308 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2458b) to the user of a space vehicle.

(2) INSURANCE.—

(A) IN GENERAL.—A developer shall obtain liability insurance or demonstrate financial responsibility in amounts to compensate for the maximum probable loss from claims by—

(i) a third party for death, bodily injury, or property damage, or loss resulting from an activity carried out in connection with the development or use of an experimental aerospace vehicle; and

(ii) the United States Government for damage or loss to Government property resulting from such an activity.

(B) MAXIMUM REQUIRED.—The Administrator shall determine the amount of insurance required, but, except as provided in subparagraph (C), that amount shall not be greater than the amount required under section 70112(a)(3) of title 49, United States Code, for a launch. The Administrator shall publish notice of the Administrator's determination and the applicable amount or amounts in the Federal Register within 10 days after making the determination.

(C) INCREASE IN DOLLAR AMOUNTS.—The Administrator may increase the dollar amounts set forth in section 70112(a)(3)(A) of title 49, United States Code, for the purpose of applying that section under this section to a developer after consultation with the Comptroller General and such experts and consultants as may be appropriate, and after publishing notice of the increase in the Federal Register not less than 180 days before the increase goes into effect. The Administrator shall make available for public inspection, not later than the date of publication of such notice, a complete record of any correspondence received by the Administration, and a transcript of any meetings in which the Administration participated, regarding the proposed increase.

(D) SAFETY REVIEW REQUIRED BEFORE ADMINISTRATOR PROVIDES INSURANCE.—The Administrator may not provide liability insurance or indemnification under subsection (a) unless the developer establishes to the satisfaction of the Administrator that appropriate safety procedures and practices are being followed in the development of the experimental aerospace vehicle.

(3) NO INDEMNIFICATION WITHOUT CROSS-WAIVER.—Notwithstanding subsection (a), the Administrator may not indemnify a developer of an experimental aerospace vehicle under this section unless there is an agreement between the Administration and the developer described in subsection (c).

(4) APPLICATION OF CERTAIN PROCEDURES.—If the Administrator requests additional appropriations to make payments under this section, like the payments that may be made under section 308(b) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2458b(b)), then the request for those appropriations shall be made in accordance with the procedures established by subsections (d) and (e) of section 70113 of title 49, United States Code.

(c) CROSS-WAIVERS.—

(1) ADMINISTRATOR AUTHORIZED TO WAIVE.—The Administrator, on behalf of the United States, and its departments, agencies, and instrumentalities, may reciprocally waive claims with a developer and with the related entities of that developer under which each party to the waiver agrees to be responsible, and agrees to ensure that its own related entities are responsible, for damage or loss to its property for which it is responsible, or for losses resulting from any injury or death sustained by its own employees or agents, as a result of activities connected to the agreement or use of the experimental aerospace vehicle.

(2) LIMITATIONS.—

(A) CLAIMS.—A reciprocal waiver under paragraph (1) may not preclude a claim by any natural person (including, but not limited to, a natural person who is an employee of the United States, the developer, or the

developer's subcontractors) or that natural person's estate, survivors, or subrogees for injury or death, except with respect to a subrogee that is a party to the waiver or has otherwise agreed to be bound by the terms of the waiver.

(B) LIABILITY FOR NEGLIGENCE.—A reciprocal waiver under paragraph (1) may not absolve any party of liability to any natural person (including, but not limited to, a natural person who is an employee of the United States, the developer, or the developer's subcontractors) or such a natural person's estate, survivors, or subrogees for negligence, except with respect to a subrogee that is a party to the waiver or has otherwise agreed to be bound by the terms of the waiver.

(C) INDEMNIFICATION FOR DAMAGES.—A reciprocal waiver under paragraph (1) may not be used as the basis of a claim by the Administration or the developer for indemnification against the other for damages paid to a natural person, or that natural person's estate, survivors, or subrogees, for injury or death sustained by that natural person as a result of activities connected to the agreement or use of the experimental aerospace vehicle.

(d) DEFINITIONS.—In this section:

(1) ADMINISTRATION.—The term ''Administration'' means the National Aeronautics and Space Administration.

(2) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the National Aeronautics and Space Administration.

(3) COMMON TERMS.—Any term used in this section that is defined in the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451 et seq.) has the same meaning in this section as when it is used in that Act.

(4) DEVELOPER.—The term ''developer'' means a person (other than a natural person) who—

(A) is a party to an agreement that was in effect before the date of enactment of this Act with the Administration for the purpose of developing new technology for an experimental aerospace vehicle;

(B) owns or provides property to be flown or situated on that vehicle; or

(C) employs a natural person to be flown on that vehicle.

(5) EXPERIMENTAL AEROSPACE VEHICLE.—The term ''experimental aerospace vehicle'' means an object intended to be flown in, or launched into, suborbital flight for the purpose of demonstrating technologies necessary for a reusable launch vehicle, developed under an agreement between the Administration and a developer that was in effect before the date of enactment of this Act.

(e) RELATIONSHIP TO OTHER LAWS.—

(1) SECTION 308 OF NATIONAL AERONAUTICS AND SPACE ACT OF 1958.—This section does not apply to any object, transaction, or operation to which section 308 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2458b) applies.

(2) CHAPTER 701 OF TITLE 49, UNITED STATES CODE.—The Administrator may not provide indemnification to a developer under this section for launches subject to license under section 70117(g)(1) of title 49, United States Code.

(f) TERMINATION.—

(1) IN GENERAL.—The provisions of this section shall terminate on December 31, 2002, except that the Administrator may extend the termination date to a date not later than September 30, 2005, if the Administrator determines that such an extension is necessary to cover the operation of an experimental aerospace vehicle.

(2) EFFECT OF TERMINATION ON AGREEMENTS.—The termination of this section does not terminate or otherwise affect a cross-waiver agreement, insurance agreement, indemnification agreement, or any other agreement entered into under this section except as may be provided in that agreement.

Mr. BURNS. Mr. President, this is a pretty straightforward amendment.

This is an indemnification amendment that would be part of the reauthorization of the National Aeronautics and Space Administration. We have in process now the building of the X–33 and the X–34, which are unmanned space capsules, and it is probably key to our next step into space. Those tests are due to start next year, and no test has ever been conducted by this country that this clause was not included to cover the testing of those experimental aircraft. I have been told by the leadership that this will require a vote in the morning, and so I would just let the amendment remain at the desk and also call for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BURNS. That is all the time I need. I yield the floor.

The PRESIDING OFFICER. The amendment will be laid aside and now the Kerrey amendment 3204 recurs.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

Mr. BOND. I object.

The PRESIDING OFFICER. Objection is heard.

The bill clerk continued with the call of the roll.

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

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

AMENDMENT NO. 3204, WITHDRAWN

Mr. KERREY. Mr. President, I have spoken to the managers of this bill, the distinguished Senator from Missouri and the distinguished Senator from Maryland. I appreciate, very much, their cooperation. I understand why they have to oppose this amendment. I know that they have experienced very frustrating situations themselves with regulations that are being imposed with no benefit attached.

What I would propose to do, and I would like to ask the Senator from Missouri and the Senator from Maryland just to engage me in a little bit of colloquy on this, I would be prepared to withdraw this amendment and to work with the Senator from Missouri and the Senator from Maryland as well as the Senator from Rhode Island and the Senator from Montana, the ranking members of the Environment and Public Works Committee, and with Administrator Browner of the EPA, to see if some kind of report language could be included in the conference that would allow us to apply some common sense to the implementation of this rule without sacrificing the public health objective, which is all that I want to accomplish.

Ms. MIKULSKI. First of all, I appreciate the willingness of the Senator from Nebraska to actually withdraw the amendment. The Senator from Missouri has my absolute assurance to work for report language or another acceptable approach that would deal with the compelling issue that he raised about the State of Nebraska. This would mean working with the appropriate authorizers. It also means working with the Administrator. We are willing to work with the Senator.

We understand that Nebraska comes under a rule where there are consequences with excessive copper—with nausea, diarrhea, and other things. They might not affect anybody in Nebraska, but there are consequences. We are not going to debate science tonight.

What we want to let the Senator know is, first of all, we appreciate the Senator's withdrawing the amendment. The Senator has our assurance we will work with him to advance this so that Nebraska's small communities do not have to make these expensive expenditures to comply with a rule that might in that State have either no or limited utility. We all have examples in our States. And the consequences, particularly to small, rural areas, are quite severe.

I have had to confront some of these issues in Maryland myself. I won't give the examples because of the time. But I know what it is like for a county not to have a lot of money, to maybe have to go into bonds to be able to do that and then, having to spend their bond money, they can't build another school, another library, buy another computer for a child. So we understand that and look forward to working with the Senator. The Senator has my assurance we will work with him in conference.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I, too, thank the Senator from Nebraska for his willingness to withdraw the amendment. This is not a productive road we are going down. But we are willing to work with both Senators from Nebraska because the points they make raise some very serious issues that need to be addressed by the EPA and by the authorizing committee with staff. I hope that we can bring them together and perhaps we can come out of the conference with report language that will outline a solution, or at least we can work with the authorizing committees and the other scientific entities to find out if the science on which the EPA is relying is adequate.

Also, as I believe I mentioned, the EPA has said there are flexibility options under the existing programming in which Nebraska could take advantage. I cannot tell the Senator what

those are, but we can find out and present those to the Senators so that a determination can be made if the problem can be solved by flexibility that EPA will utilize. At this juncture, at this time of night, we can't say what it will be, but we certainly assure the Senator that we will work to find, to explore every avenue to bring the relief the Senator seeks.

Mr. KERREY. I sincerely thank the Senator from Missouri and I thank the Senator from Maryland. I know the hour is late. I regret that I am in the Chamber dragging you beyond what is a reasonable hour.

I appreciate very much your willingness to try to work with both Senator HAGEL and I, and I will assure you that I will talk to the chairman and ranking member, Senator CHAFEE and Senator BAUCUS, to try to come up with some report language that will satisfy EPA.

One of the reasons we are here today is the flexibility offering that the EPA made to the Department of Environmental Control in the State of Nebraska was so insufficient the State attorney general has filed a lawsuit against EPA as a consequence. So we have reached this extreme situation, and I am very grateful for the willingness of both Senators to cooperate.

Mr. President, I ask unanimous consent that the amendment I sent to the desk earlier be withdrawn.

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

The amendment (No. 3204) was withdrawn.

AMENDMENT NO. 3206

(Purpose: An amendment increasing funding for activities of the National Aeronautics and Space Administration concerning science and technology, aeronautics, space transportation, and technology by reducing funding for the AmeriCorps program)

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

I also ask that Mr. Jim Frees, a member of my staff, be given the privilege of the floor throughout the debate.

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

The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Alabama [Mr. SESSIONS] proposes an amendment numbered 3206.

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

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

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

Mr. SESSIONS. Mr. President, I wish to express my sincere appreciation to my good friend, Senator BOND, from Missouri, who is managing this bill in a magnificent fashion, and the ranking member, the distinguished Senator from Maryland, Senator MIKULSKI. She is a true friend of space and NASA. Under the leadership of these two distinguished Senators, the subcommittee has done an excellent job in crafting this important piece of legislation. But, this bill provides funding for a variety of important Federal agencies, and a number of areas in this bill are of special interest to me and my constituents. However, today I would like to confine my remarks to the issues involving NASA and its funding and budget.

First, I congratulate this Senate for its strong support of the International Space Station. On July 7, a few days ago, this body voted by a 2 to 1 margin to continue this Nation's commitment to research in space. The first assembly flights of the space station are only a few months away. When it becomes operable, the space station will provide a unique microgravity laboratory that will far exceed any capability that has been previously available on the space shuttle or the Mir Space Station. Advances in medical and pharmaceutical science that result from space station research alone, may ultimately justify our national investment in the space station. Shuttle-based research is just beginning to demonstrate the enormous potential of using the microgravity environment for research into pharmaceutical products, and other aspects. Important developments in physics, materials science, life science and other fields through the space station research are not only possible, but probable in the future.

Furthermore, perhaps more important, the space station represents a bridge to further human exploration in space. The willingness and foresight of this Congress to take a long-term view to keep the United States involved in manned exploration of the universe is important.

Since its establishment in 1958, NASA has been a tremendous force for scientific and technological progress in this Nation. In addition, NASA has been a source of inspiration for literally millions of people, myself included, who were captivated by the dream of exploring the frontiers of space. Despite its great record and strong public support, however, NASA is laboring under the weight of several successive years of significant budget cuts.

For fiscal year 1999, the President proposed giving NASA less than $13.5 billion, which is far less than 1 percent of the national budget. This would mark the fifth year in a row that NASA's budget has been cut, in terms of real dollars. If we consider the further reduction in buying power caused by inflation during this 5-year period, the significance of these cuts become apparent. To make matters worse, the administration's budget estimate for fiscal year 2000 contemplates almost $200 million in additional budget cuts to NASA. The cuts in the President's budget request are all the more disconcerting in that they come in a year in which the President is proposing increases for almost every other civilian research and development budget as part of what the administration calls the 21st Century Research Fund.

Let me ask, can any agency symbolize to our people, and to the world, the discovering, adventuring spirit of America better than NASA? The administration, and this budget, appear to suggest differently. If the administration wants to build a bridge to the 21st century, then NASA must be one of its trusses. It simply does not make sense for our dynamic, high-tech Nation to keep cutting NASA's budget year after year.

I share the concern expressed by the National Space Society. They wrote recently:

NASA's potential to be a world leader as we move into the next millennium will be compromised by a lack of Administration interest in space exploration.

That is a serious comment and we ought to think carefully about it. The low priority put on the space program is evident when you compare the President's budget submission with the budget projections for NASA from past administrations. This chart makes the comparison.

In 1991, a very distinguished panel studied space, the Committee on the Future of the U.S. Space Program. They projected what we ought to be spending to keep NASA at the level at which they thought it should be. It went all the way up to almost $60 billion by the year 2003, and would be at $37 billion next year. Right now we are at $13 billion in this budget.

In addition to that, according to the FY 1993 budget submission that was projected to carry out through this time period, we would have substantially more money in the NASA budget. Indeed, this year shows us $8 billion below the budget submission that was projected in 1993 for NASA. That is a significant reduction. During this whole time, the total reduction from the budgetary projections for NASA total $27 billion. So they have had basically a flat and declining budget at a time they were projected to go up significantly. I think those are matters of great importance.

Norm Augustine, the Chairman of Martin Marietta, saw the need for NASA budgets which would rise by 10 percent a year through the end of the decade. We have not kept up with his vision for America and the Commission's vision for America, and we must do better about that.

Let me ask this: How has NASA coped with these large budget reductions that they sustained? In my view, they have done very well. Under the leadership of Administrator Dan Goldin, NASA has made ''Doing more with less'' not just a slogan, but a reality. Administrator Goldin has pushed his agency over and over again to do things better, faster and cheaper. The results at NASA, in my opinion, have been remarkable. They have done a good job. Mr. Goldin told me several weeks ago that ''business as usual'' does not count anymore at NASA.

I am sure all of my colleagues recall the fascinating Mars Pathfinder Mission. Just 1 year ago, Pathfinder, on

July 4, with its little Sojourner rover, was busy exploring the surface of the red planet.

Most of my colleagues probably recall also the Viking mission in 1976. The Viking spacecraft landed on Mars, took photos, and was the first mission to scoop up and analyze Martian soil. Viking was a remarkable success. It cost over $3 billion, however, in today's dollars, and took about a decade to develop. It was about the size of an average car. By contrast, the Mars Pathfinder of last year took a quarter of the time to develop, it cost less than one-tenth as much, and it was a fraction of the size, yet produced remarkable results, catching the attention of the world. I am told the Internet site, NASA's Internet site, received more hits during that period of time than any other site in history.

So this chart summarizes what has been accomplished in terms of Mr. Goldin's goal of faster, better, and cheaper.

As to cheaper, the average spacecraft development cost has gone from, in fiscal years 1990 to 1994, a cost of $600 million, down to $175 million in the period fiscal years 1995 to 1999, and they expect it to be at $85 million. That is the kind of progress we like to see. It makes space exploration much more viable in today's world than it was.

The average development time in terms of years: In fiscal year 1990 to 1994, a new mission took 8.3 years; in 1995 to 1999, it is now at 4.4. It will go to 3.5, and 3.1, under their efforts.

With regard to flight rate, that is the number of launches they are able to conduct per year—in 1990 to 1994 there were just 2. In 1995 to 1999 they have gone up to 9. In fiscal year 2000 they expect to have 13; and, in 2004, they expect to have 16. That is good. They are doing what this Congress has asked; that is, to do more with less, to explore space and to make the kind of progress that makes America proud.

Mr. President, during this time since 1993, NASA has cut its number of employees 25 percent. I recall a time 3 years ago when I became Attorney General of Alabama and I faced a budget crisis of enormous proportions. The first day I took office, we made a major decision. We had to terminate the employment of one-third of our people. We worked hard, we did a lot of different things, and we were able to continue the productivity of that office; and begin to build on that as time went by and have a better office.

NASA has done what we have asked them to do. There is no other agency, I believe, in this kind of research and exploration that has had that kind of employment cut in the last 4 or 5 years. They have done well. They are doing more in less time at less cost and at the same time with less people. I think it is something we ought to be proud of and we ought to celebrate. But we ought not to keep taking advantage of them and always cutting their budget because they are performing as we encouraged them to do.

With regard to space flight by humankind, they have continued to work on that, and it is difficult, but they have reduced the cost of space shuttle flights by 42 percent between 1992 and 1997. That is what we like to see. They are working to cut those costs even more.

The conclusion we draw is that during a time of tight budgets, NASA has been doing better than could be expected, and they responded to this Congress' challenge. Certainly, up to a point, budget challenges can be healthy for an agency. They force some critical self-examination, and they result in some positive changes.

We have heard that the periodical giving of blood makes a person strong, but if you give more than a pint and more blood and more blood, it begins to weaken you. I believe NASA is lean and healthy and strong now. It is at a good point, and we need to strengthen it now and allow it to flower and grow and continue its great scientific exploration.

The budget request for 1999 increases other civilian and research development agencies. Almost all of them, whether it is the NIH or National Science Foundation, received substantial budget increases, but not NASA. The administration proposes increases for all the major agencies in VA and HUD, but not for NASA. For fiscal year 1999, the administration has requested less than $13.5 billion, a reduction of $183 million from last year's budget.

Fortunately, Senator BOND and Senator MIKULSKI restored $150 million of that cut, and that leaves NASA facing a $33 million cut for fiscal year 1999. That is just not acceptable for this Nation. This is not a huge amount, but it is an important principle.

Our history, our heritage, our character as a nation is that we are explorers. We believe in discovery and reaching out beyond our homeland and exploring this universe. That character is at stake if year after year we keep cutting our exploration agency.

That is why I am proposing this amendment. It would add $33 million in funds for NASA for fiscal year 1999. That would bring it up to level funding—that is all—but it would be a statement, an important message by this Congress, that the day of cutting their budget more and more will end.

We are supposed to have offsets for that, and we have worked hard at that. There is no way you can have a pleasant experience when you talk about finding funds for an offset.

I have noticed, and it is well known at this time by the Members of this body, that the House committee has terminated the AmeriCorps budget, zeroed it out. We have over $220 million in this bill's funding for AmeriCorps. The whole program is about $400 million.

If we take $33 million from that, we are talking about less than a 10-percent reduction in that budget. That will probably happen in conference committee because, as I said, the House committee has zeroed out the budget, and we expect it to be less. This may be and does appear to be a perfect place to find the funds we need to maintain the NASA spending at the level of last year. In the future, we need to work to increase that budget to identify the kind of programs that will be exciting and worthwhile in this Nation and in this world.

Of the $33 million in additional funds provided by my amendment, $20 million would go to NASA's aeronautics, space transportation, and technology line item, which includes the Reusable Launch Vehicle Program. It will also provide funds to accelerate research in advanced space transportation technologies.

Additional funds will also be available for NASA's important aeronautics programs and many other projects. It will have $13 million for additional funding for NASA's science and technology programs. It will provide them the kind of affirmation and support they need.

I thank our distinguished subcommittee chairman, the Senator from Missouri, and our ranking member, the Senator from Maryland, for their efforts in restoring much of the money that was cut from NASA's budget by the President's budget request. While the amount of money is not large in terms of this Senate's overall budgetary concerns, it is significant and it sends an important signal.

Adoption of my amendment will send an important message, a message that says that NASA's programs are significant for the future of this country and its citizens and that this Congress is not going to be a party to continued reductions in support for space exploration. That is not what we ought to do. We ought not to worry about it when we have well below 1 percent of our budget going for this project.

Next year's budget submission from the President will literally take this Government into the 21st century. I call on President Clinton to demonstrate true leadership by proposing an increase in NASA's budget. The President's plan to cut additional millions from NASA next year is not acceptable.

Last year, on this floor, I made a speech proclaiming my conviction that we must continue to be a nation of explorers. At that time, I stated the following:

> Space is a key to the image and the future of this Nation in the 21st century and beyond. We must have national leadership, keen vision, clear-cut goals and a strong commitment from this Congress and the Congresses to follow. We must be willing to pay the price necessary to realize our dreams and the dreams and goals of our children.

That was true last year, and it is true today, and it will continue to be true. We are a nation of explorers. This is how the world sees us. It is how we see ourselves. All over the world on July 4 last year, people watched Pathfinder

on Mars. The Internet lit up like it has never lit up before. There were record high levels of inquiries. Let's not allow this great achievement to slip away from us. Let's not give it away at this point in time. We have to make a decision as we stand on the threshold of the next millennium. It is no time to be timid; it is no time to fall back. We are on the verge of some of the world's greatest accomplishments in science and space and technology. NASA will play a key role in that.

Mr. President, that is why I ask for support for this amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. SESSIONS. I yield the floor.

Ms. MIKULSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. I rise in opposition to the Sessions amendment. I really respect the Senator from Alabama and his deep commitment to space and to the significant investments that must be made in science if America is to be a leader in the 21st century.

I have been to the Huntsville NASA program where they are doing a significant amount of the space station work, along with so many other worthwhile projects, and can see why he would have such a passion both from a patriotic standpoint, a competitive standpoint, and in actually seeing it hands on. I do not dispute the need to increase NASA's budget. Both the chairman and I have really dealt with this issue as forcibly as we could.

Given our parameters, we felt that we have come up with essentially a funding for NASA that keeps crucial and critical programs, that keeps us exploring, keeps the Shuttle safe, and continues our work in Earth observatory data. What I object to, though, in the amendment of the Senator from Alabama, is his offset. He takes the offset of $33 million from the Corporation for National and Community Service. That program, too, has been flatlined for more than 3 years.

When we talk about national and community service, let me just say what it is. This corporation makes grants to States, institutions of higher education, and public and nonprofit organizations to create service opportunities. But most of all, one of its most significant programs is to have volunteers in communities. If you are an AmeriCorps volunteer, you get a voucher to reduce your student debt or to be able to use that voucher to either go to college, higher education, vocational education, or get yourself ready for the future.

Essentially, it is an earned-learned service opportunity. I could ask the Senator from Alabama a series of questions but I will not. But if we are going to talk about $33 million, know that $5 million in this program is to continue the Points of Light Foundation established by President Bush which we have supported in a bipartisan way. It is also $18 million from the Civilian Conservation Corps. I cannot support cutting $18 million for the Civilian Conservation Corps. So $5 million, $18 million, and we are up to $23 million. I really do not want to cut Points of Light. I really do not want to cut the Civilian Conservation Corps.

Then there is $43 million for school-based and community-based service learning. I think we do need to teach values. I do think we need to teach habits of the heart, and service learning is one of the most important ways we could do that.

The benefits in my State, my State of Maryland, show that when students have participated in volunteer services as part of the requirement to graduate from high school, they have been forever changed by the fact that they worked in a library, visited senior citizens, helped in a soup kitchen and did a whole series of other things.

Mr. President, tonight is not the night to extol the virtues of the Corporation for National and Community Service, but it has served the Nation very well. It, too, has been flatlined.

I will just conclude by saying this. There is a program in Baltimore, it is an old convent called St. Stanislaus Convent right down the street from where I lived in a neighborhood called Fells Point. It has been recycled where Catholic nuns and AmeriCorps volunteers are working with children from very poor families—really out of the public housing projects. Because of what the AmeriCorps volunteers bring, they recruit other volunteers to help the sisters be able to educate these children.

When we talk about exploring the future, we have to get behind our kids to make sure that our kids have the skills that they need to get ready for this future. And what AmeriCorps does in many ways is that the very volunteers work in public education, work to be able to recruit people for an American roots program, and gets them ready for the exciting opportunities that we have.

So while we want to go into space to explore—I want to make sure we look for yet unidentified planets—I want to make sure we have those programs that make sure that we get our kids ready to be able to work in these science and technology programs. And I believe the AmeriCorps program helps do that. And, therefore, I urge rejection of the Sessions amendment.

Mr. BOND. Mr. President, I listened with great interest to all of the wonderful and exciting things my colleague from Alabama said about the space program. He made very telling points about how this is the future and motivation of our children, this is a symbol for the next century. There are many, many, many good things about our space program. As a matter of fact, I agree with almost everything he said about how important the space program is, and I think my colleague from Maryland agrees. And, frankly, that is why in a very extremely tough budget, when the President recommended $13.465 billion for NASA, we recommended we appropriate $13.615 billion for NASA.

Now, these are the people who are running NASA. They say all they want is $13.465 billion. And we said, ''No. You've got to do better. You are going to take another $150 million beyond what the folks who are running it—under the direction of the Director of OMB—have asked for. We are increasing it. And we think that is very important.''

Unfortunately, we have had to make these choices in a budget where we had to restore an 83-percent cut in elderly housing, the section 202 elderly and assisted housing, the supportive housing that was savaged by Secretary Cuomo and the administration. We have had to restore money for veterans' health care where that was cut.

Frankly, we have reached the accommodation on a very difficult bill. And we have agreed to maintain the funding at the National Service and AmeriCorps. And as part of, I think, an overall responsible approach to the budget for all of these agencies we work on, and, in addition, to assure that the administration will be able to sign the bill—because without the administration signing the bill, it does not do us any good to go through the drill of coming up with a totally different set of priorities than they have—we have kept in funding for National Service and AmeriCorps.

Therefore, I commend the Senator for his enthusiasm for NASA. I do not believe it is feasible to achieve it. Therefore, I move to table the amendment, and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. BOND. I ask unanimous consent that the amendment be set aside.

The PRESIDING OFFICER. The amendment will be set aside until tomorrow.

AMENDMENT NO. 3207

(Purpose: To provide for the ineligibility for certain housing assistance of individuals convicted of manufacturing or producing methamphetamine)

Mr. BOND. Mr. President, I send to the desk an amendment for Mr. ASHCROFT and myself.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Missouri [Mr. BOND], for Mr. ASHCROFT, for himself and Mr. BOND, proposes an amendment numbered 3207.

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

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

The amendment is as follows:

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

SEC. 4___. INELIGIBILITY OF INDIVIDUALS CONVICTED OF MANUFACTURING OR PRODUCING METHAMPHETAMINE FOR CERTAIN HOUSING ASSISTANCE.

Section 16 of the United States Housing Act of 1937 (42 U.S.C. 1437n) is amended by adding at the end the following:

''(f) INELIGIBILITY OF INDIVIDUALS CONVICTED OF MANUFACTURING OR PRODUCING METHAMPHETAMINE ON THE PREMISES.—Notwithstanding any other provision of law, a public housing agency shall establish standards for occupancy in public housing dwelling units and assistance under section 8 that—

''(1) permanently prohibit occupancy in any public housing dwelling unit by, and assistance under section 8 for, any person who has been convicted of manufacturing or otherwise producing methamphetamine on the premises in violation of any Federal or State law; and

''(2) immediately and permanently terminate the tenancy in any public housing unit of, and the assistance under section 8 for, any person who is convicted of manufacturing or otherwise producing methamphetamine on the premises in violation of any Federal or State law.''.

Mr. BOND. Mr. President, quite simply, this has to do with getting and keeping methamphetamine production out of public housing. Many of my colleagues do not have the misfortune of understanding why the amendment is so important. Methamphetamine is a raging crisis in Missouri and many other States in the Midwest. And if it isn't in your State now, it may well be soon.

For those of you unfamiliar with the drug, it is a highly addictive, artificial stimulant constituted of such unwholesome products as lighter fluid, antifreeze, and ether, among other things. It is highly addictive, some say more so than crack; but it is perhaps the most physically destructive of illegal drugs.

In my State of Missouri, through the excellent work of local law enforcement, in cooperation with the State, and with the DEA, nearly 800 clandestine methamphetamine labs were busted last year. Law enforcement reports that there may be even more this year.

Meth started off as a rural drug, but labs have started to turn up in the major metropolitan areas of St. Louis and Kansas City. Urban drug users are starting to discover this drug as well. It is not likely that this trend will slow down, because the drug is cheaper than crack, it is more potent than crack or cocaine, it is more addictive than either of those drugs, and it can be made in the home or, in fact, almost anywhere else. In fact, it largely, in our State, is a home-made drug, which is the reason why this amendment is important.

Most of the meth being consumed in Missouri is homemade in mom-and-pop drug stores. Information necessary to make the drug is widely available and the ingredients can be purchased at your local convenience store or discount store.

The drug, however, is very dangerous to produce. While some who make this drug may consider themselves to be amateur chemists, they are actually rather ignorant individuals who are not only endangering themselves but innocent others.

Mr. President, I have seen pictures of children horribly burned because adults caring for them have them in the room where this junk is being produced, and when it goes off it can be highly dangerous. It is highly explosive. Producing meth in a kitchen or a basement produces toxins, and it produces highly explosive gas. Meth labs have been known to explode when drug officers go into a bust. They use low-velocity guns, they use low-intensity flashlights, because a flashlight, a hot flashlight, could set off the ether.

If you don't believe it, there are buildings that have had the sides blown out of them—motel rooms, shacks, wherever they have done it. When one of the meth labs explodes, it doesn't just cause a little fire. It can burn people. It can kill people. It can blow the sides of buildings out. It is very, very dangerous. That is why this bill provides for training and more assistance to local law enforcement officers, the first responders in emergency personnel—fire officials, law enforcement officials—so they will know what to do when they go into a meth lab.

We need to send a clear message that this activity is not welcome and it will not be tolerated in public housing. Not only do we want drug dealers out, but we especially want those out who are so cavalier with the safety of others that they would conduct a chemical operation, a chemistry operation that is highly dangerous, in the heart of a densely populated residential area. Should anyone doubt that this is taking place, law enforcement officers have told me about drug dealers performing the process in hotel rooms, moving cars, trailer parks, State parks, in the parking lot next to our official offices in one city, and in homes with children.

This amendment adopts zero tolerance for drug dealers. I hope that it can be adopted.

Ms. MIKULSKI. Mr. President, this side of the aisle accepts the amendment offered by Senators BOND and ASHCROFT. I commend the Senators from Missouri for bringing this to our national attention.

It obviously points out this despicable drug has two negative consequences. It is horrendous and devastating to anyone who takes it, but it is also dangerous in where it is made, and innocent people, innocent children nearby, are unwittingly exposed to and even in additional danger around its manufacturer.

We want to support this amendment. I believe we need those steps to get crime out of public housing. Public housing should be an opportunity to lead a better life, not an incubator for small business drug trafficking.

Mr. ASHCROFT. Mr. President, I rise in strong support of the amendment offered by my colleague, the senior Senator from Missouri. I am proud to be an original cosponsor of this amendment because it addresses the most pressing illegal drug problem facing our state and, perhaps, our country.

As my colleague explained, our amendment provides for a lifetime ban for individuals who manufacture or produce methamphetamine on public housing premises. Specifically, the amendment requires public housing agencies to prohibit occupancy in any public housing unit by any person convicted of manufacturing methamphetamine in violation of federal or state law. Current tenants convicted of meth manufacturing will be evicted immediately and permanently.

The need for this amendment could not be clearer. According to the Drug Czar's office, methamphetamine is by far the most prevalent synthetic controlled substance manufactured in the United States. This fact is not news to my constituents in Missouri. Last year alone, authorities seized 396 meth labs in Missouri, more than double the number of labs seized in California.

Congress has taken some significant steps to address the growing meth problem. I was proud to have sponsored the Comprehensive Methamphetamine Control Act of 1996 and to have helped secure funding for the creation of a high-intensity drug trafficking area in the Midwest. We have tried to target meth production by giving it higher priority in the demand for limited federal resources.

Unfortunately, the meth problem has become a crisis. Just this past weekend, the National Institute of Justice released a study showing that methamphetamine use among adult arrestees and detainees has risen to alarming levels. The problem is not confined to adults, however. Among 12th graders, the use of ice, which is a slang term for a very pure, smokeable form of meth, has risen 60 percent since 1992.

The amendment we are offering today sends a clear signal to meth producers: We will not tolerate your behavior and we certainly will not subsidize it. If you want to turn your taxpayer-subsidized residence into a meth lab, the only public housing you will be eligible for in the future is the penitentiary.

Our amendment attacks the problem of meth production and manufacture in federal housing projects in order to protect the safety and welfare of those law-abiding individuals who need subsidized housing. The sponsor of this amendment, my colleague from Missouri, deserves a great deal of credit for his lead role in cracking down on drug users and dealers in public housing. In 1996, he was instrumental in getting Congress to pass a provision requiring the eviction of any tenant from publicly or federally assisted housing if that tenant is determined to be involved in a drug-related criminal activity. As a result of his efforts, tenants

involved in drugs are prohibited from receiving federal housing assistance for three years or until the evicted tenant successfully meets certain rehabilitation requirements.

These provisions were designed to ensure the safety and security of families living in public housing. In addition, the reforms sought to instill responsibility in families participating in the federally assisted housing programs and to emphasize that federal housing assistance is a privilege, not a right. The amendment we are offering today extends and strengthens these provisions to address the deadly consequences of meth production.

Meth labs have been called toxic time bombs, containing highly flammable materials and deadly chemicals. As DEA Special Agent Michael Cashman has observed, ''The investigation of clandestine methamphetamine laboratories is one of the few instances where the evidence and crime scene can hurt or even kill the investigator.''

Clandestine lab explosions are responsible for killing and injuring not only meth producers and law enforcement investigators, but innocent bystanders as well. Just last year, a four-year-old child was killed in Arizona when the meth lab his parents had erected in their apartment caught on fire. As horrifying as this case is, it is not an isolated incident. Within the last couple of years, other innocent young children of meth-producing addicts as well as heroic law enforcement agents have been victimized by the highly dangerous enterprise of meth manufacturing.

As the epidemic of meth production has grown, so has its presence in public housing. When I asked local prosecutors if they knew of recent manufacturing activities in Missouri, it seemed everyone had a story or two to tell.

In Dekalb County, two men recently pled guilty to attempted manufacturing of meth in a public housing unit. Sadly, when police made the arrest, they found not only gas cans, paint thinner, butane fuel, and other meth paraphernalia, but an infant girl.

In Platte County, a man living in section 8 housing was recently convicted of meth production, possession, and endangering the welfare of a child.

And, in Grundy County, two recipients of federal housing assistance were found guilty recently of attempting to manufacture meth in their apartment.

Mr. President, these examples were obtained with just a few phone calls. I do not doubt that many of my colleagues have heard about similar crimes from police and prosecutors in their states.

We need to get serious again about fighting the use of meth and all illegal drugs in this country. I say ''again'' because for the past five and one-half years, the Clinton-Gore Administration has failed to provide leadership on this critical threat to our nation. Since President Clinton took office, use of marijuana by 8th graders has increased 176 percent. Cocaine and heroin use among 10th graders have more than doubled. And, as I mentioned before, use of meth ice has risen 60 percent on this Administration's watch.

Even if it is accepted, this amendment will not single-handedly reverse these frightening trends. It is, however, a step in the right direction. It sends the signal this Congress needs to send; namely, that the dangerous manufacture of illegal drugs in public housing is unacceptable.

I want to thank my colleague again for his leadership on this issue. He understands the destruction meth has caused in our state and around the country, and his amendment is an appropriate response. I am glad to join him in this effort.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3207) was agreed to.

Mr. BOND. I move to reconsider the vote.

Ms. MIKULSKI. I move to lay it on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3208

(Purpose: To state the sense of the Senate that it should be the goal of the Department of Veterans Affairs to serve all veterans at health care facilities within 250 miles of their homes, and for other purposes)

Mr. BOND. Mr. President, on behalf of Senators SNOWE and COLLINS, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Missouri [Mr. BOND] for Ms. SNOWE, for herself, and Ms. COLLINS, proposes an amendment numbered 3208.

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

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

The amendment is as follows:

SEC. 110. (a) It is the sense of the Senate that it should be the goal of the Department of Veterans Affairs to serve all veterans at health care facilities within 250 miles of their homes, and to minimize travel distances if specialized services are not available at a health care facility operated by the Veterans Health Administration within 250 miles of a veteran's home.

(b) Not later than 6 months after the date of enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the House of Representatives and the Senate a report on the estimated costs to and impact on the health care system administered by the Veterans Health Administration of making specialty care available to all veterans within 250 miles of their homes.

Ms. SNOWE. Mr. President, this amendment will help ensure that America's veterans get the health care and services they deserve as close to home as possible.

My amendment does two things: It expresses the sense of the Senate that it should be the goal of the VA to serve all veterans at health care facilities within 250 miles of their homes, and minimize travel distances if specialized services are not available at a health care facility operated by the VA within 250 miles of a veteran's home.

Second, it mandates that the VA submit a report to Congress on the estimated cost to and impact on the health care system administered by the VA of making specialty care available to all veterans within 250 miles of their homes.

Mr. President, I represent a rural state, Maine, which is served by one Department of Veterans Affairs facility, the Togus VA Medical Center outside the state's capital, Augusta. Many of Maine's veterans already must travel hundreds of miles just to reach Togus—and often, if specialized services are required, they must travel even further to facilities in Boston. This means long drives, frequently in terrible weather, and separation from the vital support that family and friends can provide.

This is not a problem limited to Maine—far from it. It is a problem that exists anywhere where there are vast distances between cities—out west, in the heartland, and down south.

The level of our commitment to this nation's veterans should not be contingent upon the whims of geography. I understand the financial constraints under which the VA must operate, however, the debt we owe our veterans will never be repaid until we do all we can to ensure that all our nation's veterans have appropriate access to services.

Mr. President, this amendment does not all any additional funding to the VA/HUD bill. All it does is to recognize that there is a serious disparity in terms of veterans' access to the services which they earned and to which they are entitled, encourage the VA to make a priority of serving all veterans equally, and require the VA to explore the situation further.

I think we can all agree that we owe our veterans that much. I know that the VA is facing challenging times, but my hope is that the VA will also recognize that our veterans are facing serious challenges in accessing the services they were promised. I urge my colleagues to join me in supporting this amendment.

Mr. BOND. The amendment has been cleared on both sides. It is a sense-of-the-Senate resolution that it should be the goal of the Veterans' Administration to serve all veterans at health care facilities within 250 miles of their home. It sounds like a very reasonable proposal. I urge its adoption.

Ms. MIKULSKI. I gladly accept the amendment offered by my colleague from Maine. Her commitment to health care and its accessibility is long standing. To ensure that veterans don't have to drive miles and miles and miles to get the health care that they need is a very modest amendment that we could agree to.

Mr. BOND. I thank my colleague from Maryland.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3208) was agreed to.

Mr. BOND. I move to reconsider the vote.

Ms. MIKULSKI. I move to lay it on the table.

The motion to lay on the table was agreed to.

Mr. CRAIG. Will the Senator from Missouri yield for purposes of a colloquy?

Mr. BOND. I am happy to enter into a colloquy with the Senator from Idaho.

Mr. CRAIG. As the Senator is aware, I have worked extensively on assuring the Waste Isolation Pilot Project, a site in New Mexico to store low-level, transuranic waste, is open to dispose of nuclear waste.

Mr. BOND. I am aware of the extensive support the Senator has given to WIPP.

Mr. CRAIG. Is the Senator aware that the New Mexico Environment Department is in the process of issuing a RCRA Part B Permit to have mixed waste shipped to and stored at the site?

Mr. BOND. The Senator from Idaho has made me aware that the RCRA Part B permit is to be issued soon.

Mr. CRAIG. Well, I would like to address that process and the actions of the New Mexico Environment Department for a moment. Mr. Chairman, it is my belief that the State of New Mexico is using an unprecedented process in issuing the RCRA Part B. If the current draft is finalized, the permit would require that each site which seeks to ship mixed waste to WIPP go through a modification of the Part B Permit. This could delay already stalled shipments from sites in New Mexico, Colorado and Idaho because of procedural impediments put in place by the State of New Mexico. This needless delay would likely cause the Department of Energy to violate their agreement regarding the disposal of nuclear waste from Idaho. Mr. Chairman, my point is this: The reason that the State of New Mexico is involved in this process is that the Environmental Protection Agency has delegated its authority over materials regulated by RCRA to the State of New Mexico. However, delegating authority does not, I believe, relieve EPA from its responsibility to ensure that the permitting of the WIPP facility is done within the intent of Congress in the WIPP Land Withdrawal Act and RCRA. As a matter of fact, it is tasked with ensuring that the State acts within the intent of federal law. Mr. Chairman, the Environmental Protection Agency has recently certified that WIPP can accept transuranic waste. However, it sits idly by as the State works to ensure that WIPP is not opened in a timely manner. The EPA should provide adequate oversight of the State of New Mexico to assure WIPP's timely opening.

Mr. BOND. I thank the Senator for bringing this to the attention of the Committee. I would hope EPA would carefully evaluate the situation and keep the Committee informed of its progress.

SENIOR CITIZENS HOUSING

Mr. D'AMATO. Mr. President, I would like to enter into a colloquy with my friend Senator KIT BOND, the distinguished Chairman of the Veterans Affairs and Department of Housing and Urban Development (HUD) Appropriations Subcommittee. I applaud the strong efforts of the Chairman in protecting funding for housing programs for senior citizens. I am pleased to support the funding provided by this bill for elderly housing.

I was pleased to cosponsor Senator BOND's amendment to the Senate Budget Resolution earlier this year, expressing the Sense of the Senate that funding for the HUD Section 202 Elderly Housing program should be protected. The amendment, which passed the Senate by a vote of 97–2 on April 2, 1998, expressed a policy that was not only met but exceeded by this bill. Specifically, I fully support this bill's inclusion of $676 million for the Section 202 program in Fiscal Year 1999—a $31 million increase from the Fiscal Year 1998 funding level.

The HUD Section 202 program is a critical component of our federal housing strategy. The program provides funding for the development of new affordable housing opportunities and services for seniors. This combination of affordable housing with services helps to promote and maintain the independence and dignity of our senior citizens. This critical program helps to protect seniors' quality of life by offering them an opportunity to remain active and respected members of the community.

I was dismayed earlier this year by the Administration's proposal to reduce funding for this important program by over 83 percent, to a level of $109 million. This proposal to cut housing for the elderly was unacceptable. The funding increase provided by this bill sends a strong signal to the Administration that future proposals to cut the program will be met by fierce opposition by the Senate.

Mr. President, I would also like to applaud Chairman BOND's inclusion of a requirement for HUD to conduct a formal study assessing the housing needs of elderly Americans. This much-needed study will examine the unmet housing needs of the elderly and assess the physical condition of the existing stock of affordable housing for the elderly.

In connection with this study, I would like to bring to the attention of the Senate an important resource for elderly housing in my home state of New York. The Council of Senior Centers and Services of New York City (Council) can provide invaluable input to HUD during the development of this study. The Council represents 265 senior service organizations—ranging from individual community centers to large, multiservice, city-wide organizations.

I would ask the distinguished Chairman of the Subcommittee if it is his intent that HUD should develop the required study with the input and assistance of local senior housing providers and nonprofit organizations such as the Council of Senior Centers and Services?

Mr. BOND. Mr. President, I agree with the comments of my friend, Senator D'AMATO, the Chairman of the Committee on Banking, Housing and Urban Affairs, which has jurisdiction over federal housing programs. In an effort to ensure that HUD's elderly housing programs are operating in an effective manner, the Subcommittee included a provision in the legislation to require a report on the unmet housing needs of the elderly and the condition of the existing elderly housing stock. In addition, HUD will report on new and innovative approaches to providing additional housing opportunities while reducing costs and increasing efficiency.

It is the intent of the authors of this legislation that HUD's report on elderly housing shall be developed with meaningful input from a wide variety of interested parties, including government entities and housing organizations. In particular, the authors fully intend HUD to develop this study in partnership with housing and service providers. Furthermore, the Subcommittee is fully cognizant of the invaluable work of the Council of Senior Centers and Services in meeting the housing and service needs of the elderly in New York City. The Subcommittee strongly encourages HUD to solicit the input and advice of the Council in the development of this study.

I thank Senator D'AMATO for his clarifying remarks and I look forward to receiving this much-anticipated HUD report on elderly housing.

TORNADO PREPAREDNESS PILOT PROGRAM IN SOUTH DAKOTA

Mr. JOHNSON. Mr. President, on the night of May 30 a powerful tornado devastated the small community of Spencer, South Dakota. The tornado destroyed ninety percent of the town, injured 150 people, and, most tragically, killed six South Dakotans. I am pleased to say the positive determination of the residents of Spencer to rebuild their lives has been inspirational and all of the surviving victims are making progress toward returning their lives to some semblance of normality.

Unfortunately tornadoes are all too common in my state, however one aspect of the Spencer tornado caught my attention right away—that is the fact the warning siren did not sound because the electricity had been blown out. I recognize that the tornado which hit Spencer was so powerful that sounding a warning siren may not have

spared the residents of Spencer the total destruction of their community. However, reports of the lack of a warning from the siren in Spencer prompted a statewide focus on the quality of the emergency alert capability around my state of South Dakota. Unfortunately, almost every county in my state has acknowledged that it urgently needs some sort of emergency alert upgrade.

Mr. President, my guess is that South Dakota is not unique in that the emergency alert system for tornadoes is inadequate in virtually every part of the state. I suspect many states have never systematically examined their emergency alert systems and how needs have changed since the civil defense sirens were initially erected and technology advanced.

I am hopeful that at least one positive development to come out of the devastation of the Spencer tornado can be legislative action to address the emergency alert needs across the state of South Dakota and this nation. Consequently, I have proposed the creation of Tornado Preparedness Pilot Program to be administered by Region VIII of the Federal Emergency Management Agency.

Mr. President, this pilot program would provide $1 million from the Emergency Planning and Assistance appropriation for grants directly to local and county emergency management officials in South Dakota to provide 75% of the cost of purchasing emergency alert equipment. Examples of emergency alert equipment eligible for purchase under this Tornado Preparedness Pilot Program includes: new sirens with back-up capability, siren upgrade equipment, weather radio transmitters, weather radios and other emergency alert equipment.

This pilot program would be an excellent first step in establishing a nationwide Tornado Preparedness Program much like the Hurricane Preparedness Grant Program and an Earthquake Hazards Reduction Grant Program which currently exist.

Further, I think South Dakota is the appropriate state to conduct this pilot program because in the wake of the tragic Spencer tornado, awareness has been elevated all over the state of South Dakota about the critical importance of high quality, effective emergency alert capability. Our state is now ready to aggressively deal with this problem. Additionally a large, rural state like South Dakota has unique needs. For example, many South Dakotans need a different kind of alert system than sirens because they live in a remote area. Most small communities lack the tax base to fully fund a siren upgrade or the purchase of additional sirens. Also, the terrain of the Black Hills of South Dakota presents challenges for transmitter coverage and also for adequate siren coverage.

Senator MIKULSKI, do you support my proposal to create a Tornado Preparedness Pilot Program in the State of South Dakota?

Ms. MIKULSKI. I appreciate your bringing the situation in South Dakota to the Senate's attention. I encourage the Federal Emergency Management Agency to fund this important initiative.

Mr. JOHNSON. I deeply appreciate the Senator's support. The number of tornados experienced each year throughout the '90s has remained consistently high. Data available from the National Climatic Data Center shows that in every year in the '90s our country has experienced close to or over 1,100 tornados each year. Mr. Chairman, do you agree that the pilot program I have proposed would be useful not only in terms of meeting the needs in South Dakota, but also in terms of providing this nation a model for the future to be used to increase emergency alert capabilities across the country?

Mr. BOND. I urge the Federal Emergency Management Agency to consider funding the pilot program so that we can assess its success prior to the Fiscal Year 2000 appropriations process.

Mr. JOHNSON. I thank the Chairman for this support, and I deeply appreciate your and the Senator from Maryland's willingness to work with me on this critically important issue.

Mr. FEINGOLD. Responding to several constituent inquiries on this matter, I wanted to clarify with the Subcommittee Chairman and the Ranking Member of the purposes for which the funds contained in FY 1999 Department of Veteran's Affairs and Housing and Urban Development Appropriations bill for Section 319 of the Clean Water Act can be used. Is this Senator correct in his understanding, Mr. Chairman, that Phase I, II, and III projects, and lake water quality assessments which were previously done under the Section 314 Clean Lakes Program may be funded with the funds provided for Section 319 grants?

Mr. BOND. Yes, the Senator is correct. With the resources provided in this bill, states may use Section 319 funding for eligible activities that might have been funded in previous years under Section 314 of the Clean Water Act. It is the Committee's hope that Section 314 program activities can be well supported with the funding provided to the 319 program.

Mr. KOHL. I appreciate the clarification by the Senator from Missouri. There has been considerable concern in our home state of Wisconsin that since EPA has combined its budget request for the 319 and 314 programs, Clean Lakes program grants to states have been reduced in the number of projects and dollars spent. I would ask the Senator from Maryland if she shares Senator from Missouri's understanding?

Ms. MIKULSKI. Again, to be clear, the funds in this legislation can be used to support Section 314 program priorities. EPA Regional Clean Lakes Coordinators and EPA Regional Nonpoint Source Coordinators and their counterparts at the state and local level will need to work together to assure that critical Clean Lakes program needs, such as water quality assessment and diagnostic studies, are accomplished with 319 dollars.

Mr. FEINGOLD. I thank the Chairman and Ranking Members for their explanations.

HOUSING ASSISTANCE

Mr. WELLSTONE. Mr. President, I understand that in conference the issue of FHA property disposition reform may be raised. Without going into the details of any possible changes to the program, I would like to receive some indication from the bill managers as to how the funds that would be saved by such reforms might be used. I hope such savings would be used for housing assistance. It seems to me that this would be a unique opportunity to further address the 5.3 million American households with worst case housing needs. I know that my colleagues on the VA/HUD appropriations subcommittee worked hard to put as much money into housing as possible given the constraints that they were working under. I know housing is a priority for them. So I would simply ask my colleague if he agrees with the logic of putting HUD program reform savings into housing assistance.

Mr. BOND. I appreciate the question from the Senator from Minnesota. I agree that there are greater housing needs in this country than can be met by this bill, though I believe the Committee has done a good job of trying to reconcile a lot of conflicting priorities. Naturally it would be the intent of this senator to maximize the number of Americans who are able to avail themselves of federal housing assistance.

Ms. MIKULSKI. I concur with the observations of the Senator from Minnesota. There is a disturbingly large gap between the number of units of affordable housing and the number of families in need. Savings from HUD property disposition reform should go to federal housing assistance in some form. As a clarification, would it be correct to say that my Colleague from Missouri agrees with the Senator from Minnesota and myself that if savings could be found within the HUD accounts, that housing programs would be a primary target for such funds?

Mr. BOND: That is correct. I also want to emphasize that the reform of FHA property disposition is critical, but needs to be designed to ensure that property disposition helps to protect distressed communities, where applicable.

Ms. MIKULSKI. I concur with Chairman BOND and will work with him to ensure that the reform of the FHA property disposition program protects local communities.

Mr. WELLSTONE. The Chairman and Ranking member's comments on property disposition reform are well taken. I thank my colleagues.

Mr. BINGAMAN. Mr. President, I want to commend Senators BOND and MIKULSKI for their hard work in bringing this appropriations bill to floor. I

realize it is a difficult task to accommodate so many members' requests, and I appreciate their efforts. I do want to bring to their attention, however, a project I believe is very worthy of funding. It is a multi-purpose in Shiprock, New Mexico, which is on the Navajo Indian Reservation. The center would primarily be for Navajo youth. I know the Senator from Maryland is well aware that juvenile crime, drug abuse, alcohol abuse and unemployment are very serious problems on the Navajo reservation. There is a desperate need to get these problems under control and give youth a meaningful alternative. This multi-purpose Center will do exactly that.

Ms. MIKULSKI. I thank the Senator from New Mexico for bringing this worthy project to my attention. I am aware of the serious problems on the Navajo reservation, and I agree that this is a worthy project. The Senator from New Mexico has my commitment to work in conference to support this project should funding become available.

Mr. BINGAMAN. I thank the Senator from Maryland for her commitment to help address the desperate situation facing many of these Navajo youth, and I look forward to working with her.

Mr. NICKLES. I thank my friend from Missouri for allowing me to ask him a question regarding the Supreme Court's June 25th ruling that the line-item veto is unconstitutional. As Chairman of the VA/HUD Appropriations Subcommittee, I believe his opinion on this matter is important. Especially, in light of the fact that his Subcommittee has approved $900,000 in its FY 1998 Conference Report for the final planning and design stages of a new national veterans cemetery in Oklahoma which was line-item vetoed by the president.

My question is this, now that the line-item veto has been declared unconstitutional, does the VA now have the authority to spend the $900,000 that was appropriated in the FY 1998 VA/HUD bill.

Mr. BOND. It is my understanding, now that the Line-item veto has been declared unconstitutional, that the VA can go ahead and spend the $900,000 that was appropriated in the FY 1998 VA/HUD Appropriations bill, and I strongly encourage the VA to do so, as expeditiously as is possible.

Mr. NICKLES. I thank the Chairman. I want to add that my staff asked the Congressional Research Service (CRS) this same question and in a memo to my staff CRS offered this opinion, ''The United States Supreme Court has held that a law that is repugnant to the Constitution is void and is as no law.'' Seeing as the line-item veto has been declared unconstitutional, it is void and is as no law. Therefore one can conclude that the $900,000 set aside for the cemetery in Oklahoma should be spent by the VA for that purpose.

Mr. BOND. Again, I agree with my friend from Oklahoma. I am of the opinion that the VA can and should spend the $900,000 for the national veterans cemetery in Oklahoma. I do want to say to my friend and colleague from Oklahoma, that it is my understanding that the Administration is still debating how to move forward on this issue—the line item veto being declared unconstitutional. If for some reason, the Administration determines that the money is not available to be spent in FY 1998, or does not reach a decision regarding the final disposition of these funds by the time this bill goes to Conference I, as Chairman of this subcommittee will do everything I can to make sure that the $900,000 for the final planning and design stage of the new national veterans cemetery is included in the FY 99 Conference Report so that this important project can move forward in FY 1999.

Mr. NICKLES. I thank the Chairman for his support of this project, and for the cooperative manner in which he has worked with me on this important matter for the veterans of Oklahoma.

Mr. LEVIN. Mr. President, I would like to engage the distinguished majority manager of the bill in a brief colloquy regarding the Great Waters program.

As the Senator from Missouri is aware, the Great Waters program is important to my state, the Great Lakes, the Chesapeake Bay, and Lake Champlain area and all states with coastal waters. The program is intended to monitor atmospheric deposition of toxic air pollutants, provide information on these pollutants sources and loadings in our surface waters, and recommend to Congress any necessary changes in the Clean Air Act to prevent serious adverse effects to public health and serious or widespread environmental effects. These are important multi-media tasks that should receive Congress's full support. This program will help us identify and reduce toxic air pollution in an efficient way.

The FY99 budget request for the Great Waters program, also known as section 112(m) of the Clean Air Act, is $1.484 million. In FY 98, the program received $2.612 million in appropriations. The House Appropriations Committee has included language in its report urging that the EPA ''—provide at least $3 million to carry out—the Great Waters program.'' I would hope that, at a minimum, the Senate would support this amount for this important program.

Could the Senator indicate what the Senate's position would be in the conference on this matter?

Mr. BOND. I thank the Senator from Michigan for his interest. As he knows, the Senate report and bill do not speak directly to the Great Waters program. But, barring action on any amendment specifically to reduce that program, I see no reason that the Senate conferees would not accept the House statement.

Mr. LEVIN. I appreciate the Senator's assistance and attention to this issue.

SWEETWATER BRANCH PROJECT, GAINESVILLE, FL

Mr. MACK. Mr. Chairman, I would like to engage in a colloquy with you concerning a very important project in the State of Florida, known as the Sweetwater Branch/Payne's Prairie Stormwater Protection Initiative.

Mr. BOND. I would be pleased to engage in a colloquy with the Senator from Florida on what I do understand is a project that will have a positive impact on the drinking water supply or the residents of Central Florida.

Mr. Mack. I thank the chairman. Through the Sweetwater Branch/Payne's Prairie Stormwater Protection Initiative, the City of Gainsville, Florida is attempting to tackle a very critical and complex problem that confronts not only Gainesville, but ultimately the drinking water supply of much of Central Florida.

The Sweetwater Basin, which emanates above and beyond Gainesville, runs through some of the oldest sections of the City. The Sweetwater Basin discharges into a very critical natural resource in Florida, known as Payne's Prairie, a natural reserve park owned by the State of Florida. It is home to a number of plants and animal species that are unique to Florida. As these discharges move further through the system, they discharge into what is called the Alachua Sink, a major natural sink hole that drains directly into the Florida Aquifer.

The City has taken the initiative to bring together the State, the County and a broad array of environmental resources and interests in order to tackle the problems that result from contaminated runoffs which seriously impact the health of Payne's Prairie and ultimately the Florida Aquifer. The City is trying to address the problem now, in order to prevent a more serious deterioration. Unfortunately, this is a problem and a project that is beyond the scope and reach of this one small city.

Mr. BOND. Has Gainesville been working with other jurisdictions concerning this initiative?

Mr. MACK. Yes, it has. The City has brought together and obtained the support of Alachua County, the St. Johns Water Management District, and the Florida Department of Environmental Protection for the purpose of providing a solution to this problem. The City of Gainesville is to be commended for bringing together so many various interests and impact parties to address this problem. This City needs help. They have devised a preliminary plan with a relatively low cost which could ameliorate and potentially resolve the situation, but because the project is beyond the scope of the City's jurisdiction, it seems to fall between the cracks of any one federal program at this time.

Mr. BOND. I understand your concerns, and the reasons for you support of this project. This project would appear to warrant support as a special demonstration project through the Environmental Protection Agency.

Do I understand that the City of Gainesville has been devoting its own resources towards the resolution of this problem and is fully committed to a financial partnership on this project?

Mr. MACK. The Chairman is correct. The City of Gainesville has a long history of taking care of its own problems with local resources. In this case the City has already committed resources to the development of this plan and remain commits to a financial partnership.

I am pleased, Mr. Chairman, that you agree with me on the importance of this project and are willing to work with Senator Graham and the City of Gainesville to explore a more specific source of funding for this project in the up coming Conference with the other body. It is my understanding that this is correct?

Mr. BOND. Yes, Senator you are correct in your understanding. Further, I appreciate the position of the Senator from Florida and do commend the City of Gainesville for its initiative. I would like to work with you to further explore ways to assist Gainesville in moving this partnership forward, an to address this further in final FY'99 legislation.

Mr. MACK. Thank you, Mr. Chairman for your consideration. I am confidant that we can work together to provide funding for this project through the Environmental Protection Agency.

DRINKING WATER STATE REVOLVING LOAN FUND MONEY

Mr. BROWNBACK. Mr. President, I ask Senator CHAFEE, as chairman of the committee with jurisdiction over the Safe Drinking Water Act if he could please explain the eligibility requirements to qualify for loans from the Drinking Water State Revolving Loan fund, or DWSRF as it is commonly known?

Mr. CHAFEE. Yes, I would be happy to. The DWSRF is to be used to assist pubiic water systems to finance infrastructure projects needed to comply with federal drinking water regulations. Public water systems that regularly serve at least 25 year-round residents or have a least 15 service connections qualify for assistance. The DWSRF may be used if it will significantly further the public health objectives of the Act. We recognize that there are a few communities that are currently serviced by wells that are contaminated, and the best way to solve the existing public health problems intended to be addressed by the Act may be to create a federally regulated public water system.

Mr. BROWNBACK. A community in Kansas called Colwich receives their drinking water from private wells. When the county tested a sampling of the wells in this community they discovered that 81 percent of the wells are poorly constructed, 75 percent are improperly located, 29 percent experience bacterial problems and 6 percent have levels of nitrates greater than the EPA recommended level. Senator CHAFEE, as a cosponsor to the Safe Drinking Water Act Amendments of 1996, is it your opinion that providing DWSRF money to the community of Colwich will enable the families of Colwich to have safe drinking water and will further the health objectives of this Act?

Mr. CHAFEE. Yes, it is my opinion that providing Drinking Water State Revolving Loan fund money to the community of Colwich to create a public water system will further the health objectives of the Safe Drinking Water Act Amendments of 1996. Therefore, the State of Kansas has the authority to allocate DWSRF money to the community of Colwich.

Mr. BOND. Although the Appropriations Subcommittee on VA, HUD, and Independent Agencies was able to increase the drinking water SRF for fiscal year 1999 to $800 million, it is impossible to expect the DWSRF to fund new projects where there is not a public health threat. The purpose of the DWSRF is to fund drinking water systems that are having difficulties complying with the Act, it is not intended to finance new drinking water systems for communities that are having difficulties distributing drinking water.

FORT HARRISON VAMC SEWER LINE

Mr. BURNS. Mr. President, I'd like to clarify the issue of funding for a new sewer line connecting Fort Harrison VA Medical Center to the City of Helena. The Senate Appropriations Committee Report directs the VA to work with interested parties on a cost-sharing plan for the sewer line. The Committee has received a commitment from the Department of Veterans Affairs to provide $1.4 million for the sewer line out of its minor construction account. This amount is slightly over half of the estimated total cost for the project. Does the Chairman concur that the Committee endorses this funding agreement and expects the VA to make the funds available in an expeditious manner?

Mr. BOND. I concur with the Senator from Montana. The Committee expects the VA to provide $1.4 million for the Fort Harrison sewer line in an expeditious manner. I thank the Senator from Montana for the clarification.

Mr. CRAIG. Mr. President, I rise to commend the Chairman on his leadership and hard work on his bill. He and the Subcommittee have had to make hard decisions about scarce resources and have labored to do so fairly. I also appreciate the Chairman's diligence in pursuing needed, aggressive oversight of some large agencies that, at times, have been sluggish in responding. He and the Subcommittee have made real efforts to make sure the taxpayer's hard-earned dollar is spent effectively and efficiently. I have seen first-hand, and appreciate, the Chairman's dedication to the integrity of this process.

I request that the distinguished Chairman and I be permitted to engage in a colloquy.

As the Chairman knows, the City of McCall, Idaho, is faced with the absolutely critical need to make significant improvements to its water system. McCall faces a potential cost of $6 million because of federal mandates for water purification.

However, as much of 85 to 90 percent of these capital costs might be saved by installing a new, prototype, filtration technology. The City only recently received a proposal for a prototype filtration system. In what ought to be a prototype for voluntary private-public partnerships, the cost of research and development of the system would be borne by the contractor.

That leaves the City with the need for $253,000 toward installation, start-up, and initial testing of the system. Through no fault on anyone's part, the proposal was not ready for the City to review, and could not be submitted to the Subcommittee, in time for consideration during the markup of this bill.

I would ask the Chairman if he could work with us in conference to evaluate this request, with an eye toward inclusion in the conference report.

This investment of $253,000 would not only save the community of McCall possibly more than $5 million, it would be a demonstration project that could help countless other communities, as well as the federal government, save millions of the taxpayers dollars in the future. I believe such a project would be consistent with the missions of either the EPA Science and Technology program or EPA State and Tribal Grants.

Mr. BOND. I appreciate Senator CRAIG's concern for the City of McCall, its environment, the burdens imposed by federal requirements, and the very real need that this and other communities have to comply with federal mandates as economically as possible.

I will be happy to work with the Senator to examine this proposal more thoroughy. If we can determine that this project does, indeed, qualify for existing EPA programs, we will see what can be done to address this need.

EPA GRANT PROGRAMS FOR PLANNING FUTURE GROWTH

Mr. BENNETT. Mr. President, I take the Senate floor to enter a colloquy with the distinguished Chairman of the VA, HUD and Independent Agencies Subcommittee, Senator BOND. The topic of which I speak is the tremendous growth that continues to take place in my home state of Utah. Presently, Utah is ranked by the U.S. Bureau of the Census as the third fastest growing state in the Union. While Utah is often thought of as a rural state, roughly 80 percent of our population resides in the narrow mountain valleys along 100 miles of the Wasatch Front. In reality, Utah is one of the most urban states in the country.

With this in mind, I would like to thank the Chairman of the VA, HUD Committee for his assistance in including report language in the Fiscal Year 1999 bill, which encourages the Environmental Protection Agency (EPA) to work with Envision Utah, a private/

public organization tasked with planning for Utah's future. I would also like to ask Chairman BOND whether or not additional EPA programs might be of assistance to Envision Utah in fulfilling its mission?

Mr. BOND. I am happy to respond to my colleague from Utah that EPA has a number of programs that can assist organizations like Envision Utah in preparing for future growth demands. Clearly, EPA's mission of protecting the environment includes management of resources such as open space by encouraging sound urban planning. I encourage the EPA to look at any grant program that might help Envision Utah meet its goal of preparing Utah for future growth.

Mr. BENNETT. I thank my friend from Missouri for his assistance and support in addressing growth in Utah.

BUDGET COMMITTEE SCORING OF S. 2168

Mr. DOMENICI. Mr. President, I rise in support of S. 2168, the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Bill for 1999.

This bill provides new budget authority of $93.9 billion and new outlays of $54.5 billion to finance the programs of the Departments of Veterans Affairs and Housing and Urban Development, the Environmental Protection Agency, NASA, and other independent agencies.

I congratulate the Chairman and Ranking Member for producing a bill that complies with the Subcommittee's 302(b) allocation. This is a one of the most difficult bills to manage with its varied programs and challenging allocation, but I think the bill meets most of the demands made of it while not exceeding its budget and is a strong candidate for enactment. So I commend my friend the chairman for his efforts and leadership.

When outlays from prior-year BA and other adjustments are taken into account, the bill totals $91.9 billion in BA and $102.4 billion in outlays. The total bill is at the Senate subcommittee's 302(b) allocation for budget authority and outlays, for both defense and nondefense.

I ask members of the Senate to refrain from offering amendments which would cause the subcommittee to exceed its budget allocation and urge the speedy adoption of this bill.

Mr. President, I ask unanimous consent that a table displaying the Budget Committee scoring of the bill printed in the RECORD.

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

S. 2168, VA–HUD APPROPRIATIONS, 1999 SPENDING COMPARISONS—SENATE-REPORTED BILL

[Fiscal year 1999, in millions of dollars]

	Defense	Nondefense	Crime	Mandatory	Total
Seante-reported bill:					
Budget authority	131	69,855		21,885	91,871
Outlays	127	80,653		21,570	102,350
Senate 302(b) allocation:					
Budget authority	131	69,855		21,885	91,871
Outlays	127	80,653		21,570	102,350
1998 Enacted:					
Budget authority	131	69,286		21,332	90,749
Outlays	139	80,250		20,061	100,450
President's request:					
Budget authority	131	70,607		21,885	92,623
Outlays	127	81,163		21,570	102,860
House-passed bill:					
Budget authority					
Outlays					
Senate-reported bill compared to:					
Senate 302(b) allocation:					
Budget authority					
Outlays					
1998 Enacted:					
Budget authority		569		553	1,122
Outlays	(12)	403		1,509	1,900
President's request:					
Budget authority		(752)			(752)
Outlays		(510)			(510)
House-passed bill:					
Budget authority	131	69,855		21,885	91,871
Outlays	127	80,653		21,570	102,350

Note: Details may not add to totals due to rounding. Totals adjusted for consistency with current scorekeeping conventions.

AMENDMENT NO. 3209

Mr. BOND. I have a managers' amendment to offer, and I offer it en bloc. It has been cleared on both sides.

First, there are a number of technical amendments.

Second, for Senators CAMPBELL, STEVENS, and MACK, there are several amendments to ensure Native American groups are eligible for HUD drug elimination grants and the HUD rural housing and economic development.

Third, for Senator D'AMATO, we are continuing the authority for the HUD G–4 auction program.

Fourth, we are allowing HUD to use data on multifamily housing developed by the Multifamily Housing Institute.

Fifth, this amendment would require all agencies under the bill to provide detailed salaries and expenses information.

In addition, we are including Senator FRIST's amendment which authorizes OSTP, the Office of Science and Technology Policy, to conduct a study on methods for evaluating federally funded research and development.

We have also included an amendment for Senator WELLSTONE providing for a 12-month notice to tenants before prepaying the mortgage of a preservation project. Owners who have already filed notice would not be impacted. We appreciate Senator WELLSTONE's providing this amendment. We had been hoping we could have adopted this one a number of weeks ago.

Finally, we included a number of reforms of the FHA which we believe are very sound and responsible provisions. They are from Senator NICKLES, Senator MACK, and Senator FAIRCLOTH to direct HUD to improve the management of FHA.

I send this amendment to the desk and ask for its consideration en bloc.

The PRESIDING OFFICER. If there is no objection, the amendments will be considered en bloc.

The clerk will report.

The bill clerk read as follows:

The Senator from Missouri [Mr. BOND], for himself and Ms. MIKULSKI, proposes an amendment numbered 3209.

Mr. BOND. I ask unanimous consent 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.'')

NOTICE REQUIREMENTS FOR PREPAYMENT OF FEDERALLY SUBSIDIZED MORTGAGES

Mr. WELLSTONE. Mr. President, I rise today to thank the Chairman and Ranking Member for including in the manager's amendment, my amendment to the VA/HUD appropriations bill. This amendment addresses the loss of Section 236 and Section 221 housing across the country. Prepayment of federally assisted mortgages is exacerbating an already static housing market and is wrenching for the tenants, who often barely receive adequate warning that their homes may soon become too expensive for them to afford. My amendment provides tenants and local officials with fair notice that a Section 236 or 221 building is leaving the federal subsidy program. This allows tenants the ability to try and find alternate housing, and non-profits and local governments the opportunity to preserve the housing by buying out the owner's interest.

Section 236 and Section 221(d)(3) of the National Housing Act provided for the creation of federally assisted, privately owned affordable housing. Under the Section 221 program, the federal government insured the mortgages on certain rental housing, under the Section 236 program, the federally government subsidized the interest payments that owners of rental housing made on the mortgages. Both of the programs offered the security of a federal subsidy for building owners in return for their maintaining these buildings as affordable housing—the regulatory agreement signed between HUD and the building owner restricted the rents which could be charged on the units within the building so long as the mortgage was insured or subsidized by HUD. To be eligible for the program, an owner signed a 40 year mortgage, however, the deeds of trust for such properties that the owner could prepay the mortgage or terminate the insurance contract after 20 years and potentially remove that building from the pool of affordable housing.

By the late 1980's, Congress realized that the loss of Section 236 and Section 211 properties could be devastating to the supply of affordable housing. In many communities across the country, housing and real estate markets were tight enough that owners of such properties had a strong incentive to leave the programs and convert their units to market rate, or to find alternate uses for the property. In 1987, Congress enacted the Emergency Low Income Preservation Act, which created a two year moratorium on prepayment of Section 221 or Section 236 mortgages. This was done to allow Congress some time to formulate a comprehensive solution to the prepayment problem. In 1990 as part of the National Affordable Housing Act, Congress enacted the Low Income Housing Preservation and Resident Homeownership Act of LIHPRHA (LIPRA). This law was intended to manage the prepayment process, to provide incentives for owners with critical properties to stay in the system and to create a mechanism for transfer of properties to nonprofit or resident ownership.

Today this system is in tatters. Congress has not appropriated funds for the incentive program since fiscal year 1997 and it appears that HUD is no longer enforcing the provisions of LIHPRHA which call for fair notice to tenants and a plan of action to be submitted by owners.

Mr. President, the loss of Section 236 and 221 properties has become a crisis in my state. The Minnesota Housing Finance Agency believes that 10% of Minnesota's Section 236 and 221 housing is at risk—Housing advocates believe that the long term losses will be far greater. But the loss of these apartment buildings does not occur in a vacuum, the Twin Cities metropolitan area has a vacancy rate of 1.9 percent—five percent vacancy is usually regarded as full. The loss of these buildings as affordable housing is absolutely devastating to these communities.

Mr. President, I'd like to share some examples from my own state of illustrate the problem facing these tenants. These Minnesotans have had their lives completely disrupted by the prepayment of a Section 236 mortgage and if you listen to their stories over and over again you hear the same thing: with more notice they could have organized an equitable buy out of the current owner's mortgage or have made a dignified search for other housing.

Terry Truja moved into Oak Grove Towers in Minneapolis, MN, ten years ago when she became disabled; she now uses a wheel chair. She lived in the neighborhood around Oak Grove Towers for seven years prior to her disability and worked as a nurse. Her building's Section 236 mortgage was prepaid in July of 1997. Prior to the prepayment, Terry paid $250 a month for her apartment. After prepayment, her apartment now rents for $615. She has been able to stay in her apartment for one year thanks to en Enhanced Section 8 Voucher, but she will not be eligible for ordinary Section 8 after that period. Terry and the other tenants of Oak Grove Towers received 60 days notice that the mortgage was being prepaid. They are trying to work with a local non-profit who wishes to buy the building and keep it as low income housing, but now they are fighting against time. Extra notice could have made all the difference.

Elza Glikina is a Russian immigrant who lives with her husband in Oak Grove Towers. She speaks fluent English and serves as a contact with the outside world for the many elderly Russian immigrants who live in the building, many of whom do not speak English. She says that these people ''lived through so much grief in their lives'' back in their home countries and that they ''thought they had found peace'' here in Oak Grove Towers where they have formed closed bonds with others of the same nationality. For them, Elza said, the prepayment was terrifying. It reminded them of arbitrariness and soullessness of life in the Soviet Union. 60 days was not enough time for these immigrants to get their affairs in order, to apply for supplemental assistance. Though Elza is more capable then most, she says that she ''feels sick at the thought of moving.''

Jennifer Nguyen is a severely disabled Vietnamese immigrant who lives next to her brother and mother in Oak Grove Towers. She suffers from multiple medical problems, including tuberculosis and has only a portion of one lung remaining. Her doctor is located in the neighborhood, and her health might be seriously jeopardized if she is forced to move. She likes living at Oak Grove Towers, but if the building is not sold to a non-profit, she will likely have to relocate to the suburbs—away from her friends and her doctor.

Ann Peterson is a mother with a nine year old son who lives in Boulevard Villa in Coon Rapids, MN. She works, but medical problems make employment difficult. The mortgage on their building was prepaid in April of this year. Tenants and local housing officials received three weeks notice of prepayment. Ann and others tried to find a non-profit to take over the mortgage but three weeks was just not enough time—in fact it took 6 weeks after prepayment for the paperwork to provide Enhanced Vouchers to be approved. She has lived there 8 years and says that she still ''has faith that they will be able to stay.'' She continues to try and find a buyer for the building.

Mr. President, these are a few stories from two buildings where the Section 236 mortgages have been repaid. Together they represent the potential loss of 281 units of affordable housing—in a market that already has a 1.9 percent vacancy. Again, I think there stories show why notice is important for two reasons: as a buffer to the tenant and to allow local governments and non-profits time to react to keep the housing affordable.

Mr. President, I believe my amendment is a step in the right direction. It:

1. Requires an owner of eligable low income housing, such as a Section 236 or Section 221(d)(3) building, who intends to prepay a federally subsidized mortgage or terminate the federal insurance contract to give a one year notice of such intent to the tenants of the affected property and to the appropriate state and local authorities.

2. Waives this requirement in the event that the owner wishes to transfer the property to a non-profit or Residents Council which intends to maintain the units as affordable housing.

3. This amendment does not apply to owners who have already given notice of prepayment or termination, as of July 7, 1998, in accordance with current law and regulation.

Under current federal law, tenants of federally assisted rental housing receive only 30 or 60 days notice of an owner's attempt to pre-pay an insured mortgage. This short time period makes it impossible for the tenants, their advocates, local or state government to devise any alternatives to prevent the permanent loss of affordable housing. Minnesota has enacted a one year prepayment notice requirement, but this been pre-empted by LIHPRHA, LIHPRHA specifically struck down state laws which put more restrictive requirements for Section 236 and 221 than is provided for in federal law. This was justified by the funding mechanism also included in LIHPRHA, which was designed to preserve the housing should the owner decide to prepay. Now that this federal funding is gone, I believe Congress should act to require a firm, one year notice period. Again, however, my amendment is not intended to cover owners who have given legal notice of prepayment or termination under the prepayment process currently being implemented by HUD.

Mr. President, the Congressional budget office has determined that my amendment would not add to the cost of this bill. I don't believe it will be a burden to owners either. It simply provides warning to tenants, warning that I believe out of simple dignity they should be provided, and gives local and state governments the tools they need to preserve the housing—after buying out the owner at a fair price—in the affordable housing pool.

Mr. President, other speakers have talked about the crisis in affordable housing. We are at a point in our history where we are simultaneously experiencing some of the most tremendous economic growth while enduring an all time high of renters with worst case housing needs—5.3 million people across the country. My amendment is a small change, but if it is a change which provides low income tenants with increased security and allows for ample warning so that housing can be preserved then, I believe it will have a big impact.

Mr. BOND. I ask unanimous consent that it be designated as a Bond and Mikulski amendment.

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

The question is on agreeing to the amendment.

The amendment (No. 3209) was agreed to en bloc.

Mr. BOND. I move to reconsider the vote.

Ms. MIKULSKI. I move to lay it on the table.

The motion to lay on the table was agreed to.

Mr. BOND. Again, my sincere thanks particularly to my colleague from Maryland for her fine staff. My thanks to our staff for staying with us. I think we have set a record for debate, for expeditious handling of VA/HUD bill. We are grateful, No. 1, to the leadership, Senator DASCHLE and Senator LOTT, for giving us such a propitious time to expedite the consideration of this measure.

Let me extend my special thanks to the occupant of the Chair and all of the floor personnel, including the pages, of the Senate for staying with us to quarter to 12, and perhaps a little later. We appreciate your willingness. This has helped us move forward.

Ms. MIKULSKI. Mr. President, as we close the debate on the fiscal year 1999 VA/HUD bill, I thank Chairman BOND, first, for all the courtesies that he has extended both to myself and to my staff during the entire year that we have considered this legislation—many hearings, many discussions, many issues that we ironed out so we could come to the floor with the bill that really met compelling human need and investment in the future.

And at the same time, avoid a lot of the wrangling that sometimes can surround appropriations bills. I also think he handled the bill tonight with great deftness. We want to thank him. I want to thank his staff, Carolyn Apostolou and Jon Kamarck for the outstanding job they did. Of course, I could not stand here and be able to articulate the position of both my party and my own beliefs without my very able staff. I thank Andy Givens, David Bowers and Bertha Lopez, who were with me throughout the entire year as we moved this bill.

So I look forward to voting for the bill tomorrow and in conference. And really, for all of the pages who have worked so late, they should know that this bill has really helped. We have housing for the poor and have saved the environment, invested in the future. I could go on, but I am going to now yield the floor.

Mr. BOND. Mr. President, I ask unanimous consent that the votes ordered with respect to the amendments offered to the VA–HUD appropriations bill occur in the order they were offered, beginning at 9 a.m. tomorrow morning as under the previous order. I further ask that no second-degree amendments be in order to the amendments.

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

Mr. BOND. For the information of all Senators, the voting schedule for Friday morning is as follows:

The Wellstone amendment regarding veterans compensation. I understand that the chairman of the budget committee will raise a point of order with respect to this amendment so the vote will be on a motion to waive the budget act with respect to the Wellstone amendment.

Following the Wellstone vote the Senate will vote on or in relation to the Murkowski amendment regarding Alaska veterans, followed by a vote on or in relation to the Nickles FHA amendment, followed by a vote on or in relation to the Burns amendment regarding NASA indemnification, followed by a vote on or in relation to the Sessions amendment regarding NASA funding.

It is hoped that following the preceding amendment votes the Senate will immediately move to final passage of the VA-HUD Appropriations Bill.

UNANIMOUS CONSENT AGREEMENT

Mr. President, I ask unanimous consent that when the Senate completes all action on S. 2168, that it not be engrossed and be held at the desk. I further ask that when the House of Representatives companion measure is received in the Senate, the Senate immediately proceed its consideration; that all after the enacting clause of the House bill be stricken and the text of S. 2168, as passed, be inserted in lieu thereof; that the House bill, as amended, be read for a third time and passed; that the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses thereon, and the Chair be authorized to appoint the following conferees on the part of the Senate: Senators BOND, BURNS, STEVENS, SHELBY, CAMPBELL, CRAIG, MIKULSKI, LEAHY, LAUTENBERG, HARKIN, and BYRD; and that the foregoing occur without any intervening action or debate.

I further ask unanimous consent that upon passage by the Senate of the House companion measure, as amended, the passage of S. 2168 be vitiated and the bill be indefinitely postponed.

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

MORNING BUSINESS

Mr. BOND. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

REMARKS OF THE HONORABLE HOWARD H. BAKER, JR.—LEADER'S LECTURE SERIES

Mr. LOTT. Mr. President, this was old home week in the Senate. Former Senator Howard Baker of Tennessee, who served almost two decades in this body, returned to give us a piece of his mind—in the best sense of the phrase.

To be precise, he delivered, in the august Old Senate Chamber, the second presentation in our Leader's Lecture Series. The first address earlier this year, by former Senator Mike Mansfield, was both moving and memorable. Senator Baker's remarks were no less so.

He entitled his remarks ''On Herding Cats,'' a reference to the nature of the work of a Senator Majority Leader—or, for that matter, a Minority Leader. Suffice it to say that, as the current holder of the leadership office which Senator Baker gave up when he left the Senate, I fully understand what he means.

To advance the public's understanding of the Senate, and to further appreciation of its unique traditions and procedures, I ask unanimous consent that the text of Senator Baker's Lecture be printed in the RECORD.

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

REMARKS OF THE HONORABLE HOWARD H. BAKER, JR., LEADER'S LECTURE SERIES, JULY 14, 1998

ON HERDING CATS

I first walked into the gallery of the United States Senate nearly sixty years ago. My great-aunt Mattie Keene was secretary to Senator K.D. McKeller of Tennessee, and I came here to visit her in July 1939 as a 13-year-old-boy, and she procured gallery passes for the House and the Senate.

The Senate had only the most primitive air conditioning in those days. It was principally cooled by a system of louvers and vents and sky lights that dated from 1859, when the Senate vacated this chamber and moved down the hall to its present home.

The system did not work very well against Washington's summertime plague of heat and humidity, and as a consequence, Congress was not a year-round institution in those days.

Anyone who knows me understands how tempting it is to devote the remainder of these remarks to my perennial thesis—that this was precisely the way the national legislature was designed to operate: as a citizen legislature that did its work and went home, rather than a perpetual Congress hermetically sealed in the capitol city. In the summer of 1939, in any event, nature and technology offered little choice.

On that same trip in 1939, I traveled even further north—to New York, in the company of the same Aunt Mattie—to see the New York World's Fair. There I had my first encounter with a novel technology that would have even more profound consequences than air conditioning. It was called ''television.''

And it was the same K.D. McKeller, my Aunt Mattie's boss, who only three years later would help President Roosevelt launch the Manhattan Project that would shortly usher in the nuclear age.

(Senator McKeller, by the way, was chairman of the Senate Appropriations Committee at the time, and when President Roosevelt asked him if he could hide a billion dollars to finance this top-secret project, Senator McKeller replied, ''Of course I can, Mr. President—and where in Tennessee are we going to build this plant?'')

I recite all this personal history not to remind you how old I am but to remark on how young our country is, how true it is in America that, as William Faulkner wrote, ''the past isn't dead. It isn't even the past.''

The same ventilation system that Senator Jefferson Davis of Mississippi had installed in the new Senate chamber in 1859—just before leaving Washington to become President of the Confederacy—was still in use when I first came here as a boy, when television and nuclear power were in their infancy.

We enter rooms that Clay and Webster and Calhoun seem only recently to have departed. We can almost smell the smoke of the fire the British kindled in what is now Senator Lott's office to burn down Washington in August of 1814.

(By the way, you can thank me for whatever smoke you now smell. My late father-in-law, Everett Dirksen, has told me that the fireplaces in the Republican Leader's offices didn't work since they were sealed when they air conditioned the Capitol. So when I was elected Republican Leader, I asked the Architect of the Capitol what it would take to make these fireplaces work, and he replied, ''A match, I suppose.'')

My dear friend, Jennings Randolph of West Virginia, with whom I helped write much of the environmental and public work legislation of the 1970s and who passed away recently, came to Washington with Franklin Roosevelt in 1932 and was still here when Ronald Reagan arrived in 1981. He was a walking history lesson who embodied—and gladly imparted—a half century of American history.

You may be wondering by now what all these ruminations have to do with the subject of Senate leadership. The answer is this: what makes the Senate work today is the same thing that made it work in the days of Clay, Webster and Calhoun, in whose temple we gather this evening.

It isn't just the principled courage, creative compromise and persuasive eloquence that these men brought to the leadership of the Senate—important as these qualities were in restoring political prestige and Constitutional importance to the Senate in the first half of the 19th century.

(Heretical as it may sound, before these gentlemen arrived, an alarming number of men left the Senate to pursue more influential political careers in the House of Representatives.)

It isn't simply an understanding of the unique role and rules of the Senate, important as that understanding is.

It isn't even the devotion of the good of the country, which has inspired every Senator since 1789.

What really makes the Senate work—as our heroes knew profoundly—is an understanding of human nature, an appreciation of the hearts, as well as the minds, the frailties as well as the strengths, of one's colleagues and one's constituents.

Listen to Calhoun himself, speaking of his great rival Clay: ''I don't like Henry Clay. He is a bad man, an imposter, a creator of wicked schemes. I wouldn't speak to him. But by God, I love him.''

It is almost impossible to explain that statement to most people, but most Senators understand it instinctively and perfectly.

Here, in those twenty-eight words, is the secret to leading the United States Senate. Here, in a jangle of insults redeemed at the end by the most profound appreciation and respect, is the genius and the glory of this institution.

Very often in the course of my eighteen years in the Senate, and especially in the last eight years as Republican Leader and then Majority Leader, I found myself engaged in fire-breathing, passionate debate with my fellow Senators over the great issues of the times: civil rights, Vietnam, environmental protection, Watergate, the Panama Canal, tax cuts, defense spending, the Middle East, relations with the Soviet Union, and dozens more.

But no sooner had the final word been spoken and the last vote taken than I would walk to the desk of my recent antagonist, extend the hand of friendship, and solicit his support on the next day's issue.

People must think we're crazy when we do that. Or perhaps they think our debates are fraudulent to begin with, if we can put our passion aside so quickly and embrace our adversaries so readily.

But we aren't crazy, and we aren't frauds. This ritual is as natural as breathing herd in the Senate, and it is as important as anything that appends in Washington or in the country we serve.

It signifies that, as Lincoln said, ''We are not enemies but friends. We must not be enemies.'' It pulls us back from the brink of rhetorical, intellectual, even physical violence that, thank God, has only rarely disturbed the peace of the Senate.

It's what makes us America and not Bosnia. It's what makes us the most stable government on Earth, not a civil war waiting to happen.

We're doing the business of the American people. We have to do it every day. We have to do it with the same people every day. And if we cannot be civil with one another—if we stop dealing with those who disagree with us or those we do not like—we would soon stop functioning altogether.

Sometimes we have stopped functioning. Once we had a civil war. Once Representative Preston Brooks of South Carolina (who, by the way, was born in Senator Thurman's hometown of Edgefield) came into this chamber and attacked Senator Charles Summer of Massachusetts with a cane, nearly killing him. And it is at those times we have learned the hard way how important it is to work together, to see beyond the human frailties, the petty jealousies, even the occasionally craven motive, the fall from grace that every mortal experiences in life.

Calhoun didn't like Clay, didn't share his politics, didn't approve of his methods. But he loved Clay because Clay was, like him, an accomplished politician, a man in the arena, a master of his trade, serving his convictions and his constituency just as Calhoun was doing.

Calhoun and Clay worked together because they knew they had to. The business of their young nation was too important—and their roles in that business too central—to allow them the luxury of petulance.

I read recently that our late friend and colleague Barry Goldwater had proposed to his good friend, then Senator John Kennedy, that the two of them make joint campaign appearances in the 1964 presidential campaign, debating the issues one-on-one, without intervention from the press, their handlers, or anyone else.

Barry Goldwater and John Kennedy would have had trouble agreeing on the weather, but they did agree that presidential campaigns were important, that the issues were important, and that the public's understanding of their respective positions on those issues was important.

That common commitment to the importance of public life was enough to bridge an ideological and partisan chasm that was both deep and wide. And that friendship, born here in the Senate where they were both freshmen together in 1953, would have served the nation well whoever might have won that election in 1964.

Barry Goldwater and I were also personal friends, as well as professional colleagues and members of the same political team. Even so, I could not automatically count on his support for anything. Once, when I really needed his vote and leaned on him perhaps a little too hard, he said to his Majority Leader, ''Howard, you have one vote, and I have one vote, and we'll just see how this thing comes out.''

It was at that moment that I formulated my theory that being leader of the Senate was like herding cats. It is trying to make ninety-nine independent souls act in concert under rules that encourage polite anarchy and embolden people who find majority rule a dubious proposition at best.

Perhaps this is why there was no such thing as a Majority Leader in the Senate's first century and a quarter—and why it's only a traditional, rather than statutory or constitutional, office still today.

Indeed, the only Senator with constitutional office is the President Pro Tempore, who stands third in line of succession to the Presidency of the United States. Strom Thurmond has served ably in that constitutional role for most of the last 17 years, and I have no doubt he has at least another 17 to go.

In Strom's case I am reminded of an invitation that I recently received to attend the dedication of a time capsule in Rugby, Tennessee to be opened in a 100 years. Unfortunately, I could not attend because of a schedule conflict so I wrote that I was sorry that I couldn't be there for the burying of the time capsule, but I assured them that I would try to be there when they dig it up.

There was a time when even the Vice Presidency was a powerful office. When John Calhoun served as Andrew Jackson's vice president, he had the power not only to cast tie-breaking votes but also to appoint whole congressional committees.

There was also a time when Majority and Minority Leaders could keep their members in line by granting or withholding campaign funds from the national parties—the only major source of funds, besides personal wealth, that most Senators could call upon.

Even Lyndon Johnson, in the late 1950s, could wield this power and enforce his party's discipline with cash and committee assignments, as well as the famous ''Johnson treatment.''

Today, every Senator is an independent contractor, beholden to no one for fund-raising, for media coverage, for policy analysis, for political standing, or anything else. I herded cats. Trent Lott and Tom Daschle have to tame tigers, and the wonder is not

that the Senate, so configured, does so little but that it accomplishes so much.

That it does is a tribute to their talented leadership. They can herd cats. They can tame tigers. They can demonstrate the patience of Job, the wisdom of Solomon, the poise of Cary Grant and the sincerity of Jimmy Stewart—all of which are essential to success in the difficult roles they play.

For whatever help it may be to these and future leaders, let me offer now a few rules of Senate leadership. As it happens, they are an even Baker's Dozen.

1. Understand its limits. The leader of the Senate relies on two prerogatives, neither of which is constitutionally or statutorily guaranteed. They are the right of prior recognition under the precedent of the Senate and the conceded right to schedule the Senate's business. These, together with the reliability of his commitment and whatever power of personal persuasion one brings to the job, are all the tools a Senate leader has.

2. Have a genuine and decent respect for differing points of view. Remember that every Senator is an individual, with individual needs, ambitions and political conditions. None was sent here to march in lockstep with his or her colleagues and none will. But also remember that even members of the opposition party are susceptible to persuasion and redemption on a surprising number of issues. Understanding these shifting sands is the beginning of wisdom for a Senate leader.

3. Consult as often as possible, with as many Senators as possible, on as many issues as possible. This consultation should encompass not only committee chairmen but as many members of one's party conference as possible in matters of legislative scheduling.

4. Remember that Senators are people with families. Schedule the Senate as humanely as possible, with as few all-night sessions and as much accommodation as you can manage.

5. Choose a good staff. In the complexity of today's world, it is impossible for a Member to gather and digest all the information that is necessary for the Member to make an informed and prudent decision on major issues. Listen to your staff, but don't let them fall into the habit of forgetting of who works for whom.

6. Listen more often than you speak. As my father-in-law Everett Dirksen once admonished me in my first year in this body, ''occasionally allow yourself the luxury of an unexpressed thought.''

7. Count carefully, and often. The essential training of a Senate Majority Leader perhaps ends in the third grade, when he learns to count reliably. But 51 today may be 49 tomorrow, so keep on counting.

8. Work with the President, whoever he is, whenever possible. When I became Majority Leader after the elections of 1980, I had to decide whether I would try to set a separate agenda for the Senate or try to see how our new President, with a Republican Senate, could work together as a team to enact his programs. I chose the latter course, and history proved me right. Would I have done the same with a President of the opposition party? Lyndon Johnson did with President Eisenhower, and history proved him right, as well.

9. Work with the House. It is a co-equal branch of government, and nothing the Senate does—except in the ratification of treaties and the confirmation of federal officers—is final unless the House concurs. My father and step-mother both served in the House, and I appreciate its special role as the sounding board of American politics. John Rhodes and I established a Joint Leadership Office in 1977, and it worked very well. I commend that arrangement to this generation of Senate leaders and to every succeeding generation.

10. No surprises. Bob Byrd and I decided more than twenty years ago that while we were bound to disagree on many things, one thing we would always agree on was the need to keep each other fully informed. It was an agreement we never broke—not once—in the eight years we served together as Republican and Democratic Leaders of the Senate.

11. Tell the truth, whether you have to or not. Rather that your word is your only currency you have to do business with in the Senate. Devalue it, and your effectiveness as a Senate leader is over. And always get the bad news out first.

12. Be patient. The Senate was conceived by America's founders as ''the saucer into which the nation's passions are poured to cool.'' Let Senators have their say. Bide your time—I worked for 18 years to get television in the Senate and the first camera was not turned on until after I left. But, patience and persistence have their shining reward. It is better to let a few important things be your legacy than to boast of a thousand bills that have no lasting significance.

13. Be civil, and encourage others to do likewise. Many of you have heard me speak of the need for greater civility in our political discourse. I have been making that speech since the late 1960s, when America turned into an armed battleground over the issues of civil rights and Vietnam. Having seen political passion erupt into physical violence, I do not share the view of those who say that politics today are meaner or more debased than ever. But in this season of prosperity and peace—so rare in our national experience—it ill behooves America's leaders to invent disputes for the sake of political advantage, or to inveigh carelessly against the motives and morals of one's political adversaries. America expects better of its leaders than this, and deserves better.

I continue in my long-held faith that politics is an honorable profession. I continue to believe that only through the political process can we deal effectively with the full range of the demands and dissents of the American people. I continue to believe that here in the United States Senate, especially, our country can expect to see the rule of the majority co-exist peacefully and constructively with the rights of the minority, which is an interesting statement.

It doesn't take Clays and Websters and Calhouns to make the Senate work. Doles and Mitchells did it. Mansfields and Scotts did it. Johnsons and Dirksens did it. Byrds and Bakers did it. Lotts and Daschles do it now, and do it well. The founders didn't require a nation of supermen to make this government and this country work, but only honorable men and women laboring honestly and diligently and creatively in their public and private capacities.

It was the greatest honor of my life to serve here and lead here. I learned much about this institution, about this country, about human nature, about myself in the eighteen years I served here at the pleasure of the people of Tennessee.

I enjoyed some days more than others. I succeeded some days more than others. I was more civil some days than others. But the Senate, for all its frustration and foibles and failings, is indeed the world's greatest deliberative body. And by God, I love it.

BASEBALL CHOOSES WELL—BUD SELIG

Mr. LOTT. Mr. President, today I wish to congratulate Bud Selig on his unanimous election as the ninth Commissioner of major league baseball.

Baseball is enjoying a renaissance of popularity at all levels of play. Participation and interest in youth baseball is at an all-time high. Minor league baseball sets new attendance records each year while bringing the joy of the sport to smaller communities across our Nation. Major league baseball is enjoying unprecedented interest as its great players and teams continue their assault on the all-time records.

As a lifelong fan of baseball, I know Mr. Selig will continue to make baseball even more popular for its millions of fans and players from youth league through the major leagues. He will also bring considerable experience and background to his new post all of which will add to the glory of our national pastime. I wish him well. Baseball has chosen well.

ENCRYPTION LEGISLATION

Mr. DASCHLE. Late yesterday several of my colleagues took to the floor to discuss their views on the need for congressional action on encryption legislation. I would like to take this opportunity to briefly provide my thoughts on this important issue.

As everyone who follows encryption policy knows, despite years of discussion and debate, we still have not found a solution that is acceptable to industry, consumers, law enforcement and national security agencies. In this Congress alone, we have seen 7 competing bills introduced—3 in the House and 4 in the Senate.

The country is paying a price for this inability to produce a consensus solution. That price is evident not only in loss of market share and constraint on internet commerce, but also in the steady erosion of the ability of law enforcement's and national security agencies' to monitor criminal activity or activities that threaten our national interest.

We simply must find a comprehensive national policy that protects both U.S. national security and U.S. international market share—sooner rather than later. And I believe we can.

After many months of participating in discussions on encryption policy and hearing from all sides of this complex issue, I have reached two conclusions. First, the Administration has and is continuing to make good-faith efforts to reach agreement on the numerous complex issues that underlie our encryption policy. And second, there is already considerable agreement on a series of key issues. The challenge is to pull together to forge a consensus encryption policy for the 21st Century.

Earlier this year, I sent a letter to Vice President GORE asking for the Administration's goals and plans for encryption policy. In his response to me, the Vice President indicated that he supports ''energizing an intensive discussion that will apply the unparalleled expertise of U.S. industry leaders in developing innovative solutions that support our national goals.'' Subsequent actions demonstrate that the

Vice President and this Administration have been true to their word.

In the last several months, the Administration has engaged in intensive discussions with the Americans for Computer Privacy, an important business-oriented interest group. These discussions have focused on technical, policy, legal, and business issues associated with encryption, and the impact of strong encryption on law enforcement and national security. The Administration is also reviewing ACP's proposals for export relaxation. I have been assured by senior Administration officials that, in making decisions on our encryption policy, the Administration recognizes it must carefully consider commercial needs as well as law enforcement and national security interests.

As a result of the Administration's statements and actions, I am more convinced than ever that there is already agreement on a significant number of issues and that a consensus on encryption policy is possible in the not-to-distant future. First, all parties accept the need for and reality of strong encryption products. Second, all parties agree that strong encryption products are essential to the growth of electronic commerce and the internet. Third, all parties agree that 40-bit keys are inadequate to ensure privacy and security. Fourth, all parties agree that doing nothing has a real and significant downside. According to a recent study, maintaining existing encryption policies will cost the U.S. economy as much as $96 billion over the next 5 years in lost sales and slower growth in encryption-dependent industries. Finally, all parties agree that doing nothing is unsustainable because the relaxed restrictions the Administration placed on 56-bit encryption products expire at the end of the year and must be addressed within the next month or two.

So where does this leave us? Unfortunately, while recent discussions between industry and the Administration have been fruitful, they have not gone far enough or proceeded fast enough to produce the kind of agreement I believe the majority of the Congress would all like to see. The time has come for the Administration to announce exactly where it stands on several key issues—including how it intends to proceed when the current relaxed restrictions on 56-bit encryption expire.

Having urged the Administration to greater efforts, I must also ask if it would not be constructive for those who are most frustrated with the pace of change in this area to take a step back and closely examine their own positions. For example, several of the bills introduced in the Congress this session call for the Secretary of Commerce to have exclusive jurisdiction over the export of encryption products. Despite the widespread agreement that the sale of encryption products has important ramifications for our national security and law enforcement, these bills would give no role to officials from the Justice Department, the FBI, or the intelligence community in the decision process regarding which encryption products can be legally sold.

This fact would be noteworthy even in isolation. It is even more remarkable when one combines it with the observation that many of the adherents to this laissez-faire approach to export controls for encryption products are the most vocal critics of the Administration's export policies for commercial satellites.

The incongruity of these two positions is stunning. Trying to reconcile them is impossible. There are only two conclusions to be drawn from this inconsistency. Either the right hand does not know what the left is doing, or at least part of the criticism directed at the Administration is politically motivated.

I will be working with the Administration and my colleagues in the days ahead in the hope of reaching some consensus on national encryption policy. I am hopeful that over the next few weeks we can begin to resolve the numerous difficult issues that remain. Neither industry nor government is likely to get 100 percent of what it wants. However, if both sides are flexible and cognizant of the stakes involved, I am hopeful we can reach an agreement that's good for consumers, good for business, and good for law enforcement and national security.

OMNIBUS PATENT ACT OF 1997

Mr. LEAHY. Mr. President, I am here once again to talk about S. 507, the Omnibus Patent Act of 1997. On this date back in 1878, a gentleman named Thaddeus Hyatt was granted a patent for reinforced concrete. Now, 120 years later, the Senate is refusing to reinforce American innovation by failing to take concrete action to reform our nation's patent laws.

We are presented with an opportunity that will not soon repeat itself—an opportunity to pass S. 507 and give U.S. inventors longer patent terms, put more royalties in their pockets, save them money in costly patent litigation, and avoid wasting their development resources on duplicative research. At the same time, we can get our new technology more rapidly into the marketplace and make U.S. companies more competitive globally.

Remaining globally competitive is not an idle concern. The failure of this body to enact the reforms of our patent system contained in S. 507 has given foreign entities applying for and receiving patents in the U.S. unfair advantages over U.S. firms—advantages that U.S. persons filing and doing business abroad do not have. This ability to keep U.S. inventors in the dark about the latest technological developments does not work to our economic advantage. Why are we turning our backs on our businesses, small and large, by not voting on this bill?

I have made recent speeches citing the strong support this legislation has around the country. This legislation has more than just Vermont or any state in mind. It has the entire country in its best interest. Our 200 year old patent system has provided protections to many of our inventions that have led to our global economic leadership position in the world marketplace. However, that leadership position is being threatened. Litigation has increased. Small inventors have been taken advantage of. Inventors and businesses are asking for our help and requesting that we pass S. 507.

The Senate Judiciary Committee reported this bill out over a year ago by an overwhelmingly bipartisan vote of 17–1, and this bill has yet to see the light of day on the floor. No longer can we turn the other cheek when American business lets out such a cry for help. We need to bring this bill to the floor now and to pass it. We must not squander this opportunity to not only update our patent system but to come to America's defense.

I inserted into the CONGRESSIONAL RECORD on June 23, letters of support from the White House Conference on Small Businesses, the National Association of Women Business Owners, the Small Business Technology Coalition, National Small Business United, the National Venture Capital Association, and the 21st Century Patent Coalition.

On July 10, I inserted into the CONGRESSIONAL RECORD additional letters of support from The Chamber of Commerce of the United States of America; the Pharmaceutical Research and Manufactures of America, PhRMA; the American Automobile Manufacturers Association; the Software Publishers Association; the Semiconductor Industry Association; the Business Software Alliance; the American Electronics Association; and the Institute of Electrical and Electronics Engineers, Inc.

I now ask that additional letters of support for S. 507 be printed in the RECORD. These letters are from IBM; the Biotechnology Industry Organization; the International Trademark Association; 3M; Intel Corporation; Caterpillar; AMP Incorporated; and Hewlett-Packard Company.

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

IBM INTERNET MEDIA GROUP,
Essex Junction, VT, June 6, 1998.

Hon. PATRICK LEAHY,
U.S. Senate, Washington, DC.

DEAR SENATOR LEAHY: As an inventor I rely on the strength of the U.S. patent system to legally protect my invention(s). I am also the chairman of an ANSI standardization committee (NCITS L3.1) which represents the United States in an International Standardization Forum (ISO/IEC JTC 1/SC 29/WG 11). Our committee has developed the Emmy Award winning standard called MPEG–2, a standard which may have never come to pass had it not been for strong International parent protection. We are currently working on the future of International

Multimedia (MPEG–4), a standard which promises to be as popular and widely used as MPEG–2 will be. The strength of the patent laws is essential to promoting participation and the development of International Standards. However, the system which for years has effectively encouraged innovation and protected inventors, is no longer effective. A significant number of ways have been found to abuse it, such as people and/or companies obtaining inappropriate patents and in some cases pilfering others' hard-earned invention. This threatens to undermine America's position as the global leader in technology innovation. I am proud that my work as an inventor has contributed to IBM's patent portfolio.

There is no legislation pending before you that will help restore leadership and integrity to the U.S. patent system. It is responsive to today's fast paced, highly competitive environment, and it will protect inventors like me. I am writing to ask you to urge Majority Leader Lott (R–MS) to bring S. 507, the Omnibus Patent Act of 1997, to the Senate floor as soon as possible and for you to support its final passage.

The bipartisan Omnibus Patent Act of 1997, S. 507, was passed out of the Senate Judiciary Committee 17–1 and has not yet been brought up for a floor vote. The House of Representatives also passed a similar bill in May 1997. Five former Commissioners of the Patent and Trademark Office (PTO) support this bill. A Senate floor vote is the only way to continue the process to enact this legislation that would help protect inventors and companies from patent system abuse.

Please help protect America's intellectual property and urge Majority Leader Lott (R–MS) to bring this bill to the floor for a vote. Thank you for your attention to this matter, and as a concerned constituent, I request your support of this legislation.

Sincerely,

PETER P. SCHIRLING,
IBM Senior Engineer.

JUNE 18, 1998.

Re Scheduling Debate on Patent Reform Legislation, S. 507 (Hatch/Leahy).

United States Senator,
Washington, DC.

DEAR SENATOR: We are writing to urge you to support scheduling of the patent reform legislation, S. 507, on the Senate floor before the August recess. This legislation is supported by an overwhelming majority of the Senators and the few Senators who have amendments to offer can easily be accommodated in a time agreement.

BIO has been working on this critical legislation for four years, the House passed the bill by a lopsided and bipartisan margin, and it emerged from the Senate Judiciary Committee on a near-unanimous vote. There are very few issues for the Senate debate or conference with the House. It should be easy to complete action on this bill and enact it into law this session. Doing so will be a major victory for biomedical and other research.

This bill answers the concerns raised by the biotechnology industry and other high technology industries regarding the erosion of patents caused by the adoption of the GATT 20 year-from-filing regime. We need to enact this bill to provide vital protection to biotechnology firms conducting research on cures and therapies for cancer, AIDS, Alzheimer's, and other deadly and disabling diseases.

The Biotechnology Industry Organization (BIO) represents almost 800 companies and organizations that use or support biotechnology research. Our companies are finding the next generation of medicines and cures for endemic diseases that diminish the quality of life for all Americans. On a per capita basis, our companies invest more in research and development than any other industry—almost ten times the national average—or about $100,000 per employee per year. This industries investment (almost 10 billion dollars in 1998) is protected primarily through the patent system.

Patents as an incentive for this critical research. Without patents this research would stop because no investor will fund this research without patents. This is why the patent term protections in this bill are so important. The Hatch-Leahy patent term bill provides complete and unequivocal protections to ensure that diligent patent applicants will not lose patent term under the new GATT 20 year patent law.

There is no industry which has lost more in patent protection under the new GATT 20 year patent term than the biotechnology industry. Our industry has been working for three years to secure protections so that diligent patent applicants cannot, and will not, lose patent protection under this new law. It is imperative that the GATT law be amended to protect diligent patent applicants this year.

Diligent patent applicants cannot lose patent term under the patent provisions of Hatch-Leahy bill. If there are any delays in the grant of a patent by the Patent and Trademark Office (PTO) which are beyond the applicant's control, the applicant is given extra patent term—day-for-day compensation. This is a similar system which now applies when a patent holder loses patent term due to delays in the approval of a product by the Food and Drug Administration. So, the solution provided by the Hatch-Leahy bill is tried and tested and it works.

In addition to these patent term provisions, the Hatch-Leahy bill also provides for publication of internationally filed patent applications 18 months after filing and BIO supports this provision as well. Our companies file for patents in Europe and Japan where all applications are published after 18 months. Therefore 18 month publication in the United States will place U.S. companies on equal footing to their European and Asian competitors.

We enthusiastically support the patent term and publication provisions of the Hatch-Leahy bill, know that it solves the patent term problem, urge you to support scheduling of this bill and support final passage. The current GATT/TRIPS law is very problematic for the biotechnology industry and enactment of S. 507 is needed to eliminate the disincentive for biomedical research,

Please contact us with any questions about this critical issue; we would be pleased to meet with you to discuss them.

Sincerely,

CHARLES E. LUDLAM,
Vice President for Government Relations.
DAVE SCHMICKEL,
Patent and Legal Counsel.

INTERNATIONAL TRADEMARK ASSOCIATION,
Washington, DC, May 8, 1998.

Hon. PATRICK J. LEAHY,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR LEAHY: You already know of our association's strong support for S. 507, the Omnibus Patent Reform Act. Our members are trademark owners located in every state of the union. This bipartisan bill makes important changes to the U.S. Patent and Trademark Office (USPTO) that are necessary to enable the USPTO to respond efficiently and effectively to the tremendous growth in trademark applications generated by our robust economy.

With next week designated as ''High Tech Week'' in the Senate, where legislation dealing with new technology will be considered, there is no bill that is more deserving of attention and support at this time than S. 507. By converting the USPTO into a government corporation that is 100% user-fee funded, S. 507 will free the agency from constraints which have long hampered efficient operations. Passage of this important legislation will ensure that new products and inventions receive the protection they need both here at home and in global markets.

S. 507 provides great value to intellectual property owners and should be allowed to proceed to the Senate floor. We ask for your help in gaining passage of S. 507.

Sincerely,

DAVID STIMSON,
President.

3M, OFFICE OF INTELLECTUAL PROPERTY COUNSEL,
St. Paul, MN, June 9, 1998.

Hon. PATRICK LEAHY,
United States Senate,
Washington, DC.

DEAR SENATOR LEAHY: I am writing to express the strong support of the 3M Company for the reforms contained in S. 507, the Hatch/Leahy Omnibus Patent Reform Act, and to request that you ask Senator Lott to schedule it for a Senate vote as soon as possible. S. 507 is critically important to U.S. industry. Its reforms will strengthen and improve the United States patent system, allowing American industry to compete more effectively with its foreign competition.

S. 507 will give the U.S. Patent and Trademark Office the administrative flexibility to operate at peak efficiency, save inventors money, and accelerate patent processing. It will allow American inventors and companies to see foreign technology contained in U.S. patent applications more than a year earlier than today, while ensuring that domestic inventors who choose not to take advantage of publication before patent grant may continue to do so if they do not file outside of the U.S. The legislation will guarantee diligent applications a patent term of at least 17 years from grant and most will receive an even longer term of exclusivity. S. 507 would also make existing reexamination procedures more effective by allowing greater third party participation, while adding numerous safeguards to protect against abuse.

One specific reform of S. 507 which 3M most strongly supports is that of creating a prior domestic commercial use defense. This long overdue reform will protect manufacturing jobs in American companies like 3M by ensuring that a late filed patent—nearly one-half of U.S. patents are foreign owned—will not disrupt domestic manufacturing operations. Important technology underlying our successful Post-it® Notes such as those attached to this letter—and the jobs of the American workers who produce them—will be made safer against foreign attack by the passage of S. 507.

The reforms in S. 507 are designed to improve the functioning of the patent system for all users, large and small. In fact, Senators Hatch and Leahy have recently agreed to amend their bill on the Senate floor in response to requests from small businesses. With these changes, key small business constituencies such as the Technology Chairs of the White House Conference on Small Business, the National Association of Women Business Owners, and the Small Business Technology Coalition have expressed their enthusiastic support for S. 507.

U.S. industry needs these patent reforms now. Support S. 507 and urge Senator Lott to bring it to a vote promptly.

Sincerely,

GARY L. GRISWOLD,
Staff Vice President and Chief Intellectual Property Counsel.

INTEL CORPORATION
Santa Clara, CA, June 12, 1998.

Hon. PATRICK J. LEAHY,
U.S. Senate,
433 Russell Senate Office Building.

DEAR SENATOR LEAHY: For the past four years, Intel has been an active participant in the 21st Century Patent Coalition, which supports the enactment of patent reform legislation (S. 507). S. 507 would accomplish three broad goals of vital importance to our industry: modernizing patent administration, improving and simplifying dispute resolution procedures in the Patent and Trademark Office, and strengthening inventors' rights in a number of ways, most importantly by protecting them from loss of term due to Patent Office delays. Our coalition has the support of over 80 major American industrial companies and 22 industry associations that are composed, primarily, of small businesses.

Now, S. 507—which passed the House on a voice vote last year, and was approved in the Senate Judiciary by a vote of 17–1—is ready for floor action in the Senate. Our coalition has worked hard to address any and all legitimate concerns about the text of the bill and its impact upon small business entities and independent inventors, and we believe that it would, if enacted, create the most pro-inventor patent system in the world. It has recently received the enthusiastic support of the White House Conference on Small Business Technology Chairs, the National Association of Women Business Owners, and the Small Business Technology Coalition.

The patent system we have today will be ill equipped to serve the needs of inventors in the next century if the improvements provided for in S. 507 are not made. We ask for your help in scheduling S. 507 for a floor vote, and for your support for the Committee bill on final passage.

Your support will help preserve America's role as the world's technology leader.

Sincerely,

CARL SILVERMAN,
Director of Intellectual Property.

CATERPILLAR INC.,
Peoria, IL, June 3, 1998.

Hon. PATRICK J. LEAHY,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR LEAHY: I am writing to express Caterpillar's strong support for S. 507 (Hatch/Leahy), The Omnibus Patent Act of 1997. As you know, S. 507 was reported from the Senate Judiciary Committee on a vote of 17–1 and is awaiting Senate floor action. A companion bill passed the House last year.

S. 507 would modernize the U.S. patent system through major improvements in our patent laws that will greatly benefit America's large and small businesses, inventors and entrepreneurs. For Caterpillar, this legislation will mean reduced costs, reduced risk, reduced bureaucracy, fewer lawsuits, more certainty regarding property rights, and generally a faster, more responsive patent system.

Equally significant, key small business groups now agree that S. 507 will streamline the patent process and help America's inventors who currently suffer from delays in the patent office that are not their fault.

It's time for the Senate to vote on this bill to help strengthen the U.S. economy and keep jobs in America.

I urge you to contact Majority Leader Lott in support of early scheduling of S. 507 for floor debate, and support the efforts of its sponsors to adopt a bill without weakening amendments.

Sincerely,

WILLIAM B. HEMING,
General Patent Counsel.

AMP INCORPORATED,
Washington, DC, June 3, 1998.

Hon. PATRICK J. LEAHY,
U.S. Senate,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR LEAHY: Please ask Senator Lott to bring S. 507, the Hatch-Leahy Omnibus Patent Act, to the floor as soon as possible. This patent reform is important to AMP, our employees, and the hundreds of inventors in our company who think up new ideas to produce better products, to keep our company competitive, and to create new jobs.

It's time to bring this bill up for a vote. The technology chairs of the White House Conference on Small Business have approved S. 507 because, ''(it) will lower the litigation costs for small business, make it easier to know what areas of technology are open for innovation, and will go a long way towards giving us a more level playing field vis-a-vis our foreign competitors.'' AMP and the dozens of other companies and associations in the 21st Century Patent Coalition agree.

This bill has undergone months and months of scrutiny and compromise and is now ready for a vote. I hope you'll encourage the Majority Leader to schedule floor time for this reasonable reform measure.

If you need any more information about S. 507, please let me know.

Sincerely,

JOHN PALAFOUTAS,
Director, Federal Relations.

HEWLETT-PACKARD COMPANY,
Palo Alto, CA, June 22, 1998.

Hon. PATRICK J. LEAHY,
U.S. Senate,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR LEAHY: S. 507, the Omnibus Patent Act, has been reported out of the Judiciary Committee, but is appears that Majority Leader Lott needs some encouragement to schedule the bill for floor action. Hewlett-Packard Company strongly supports enactment of S. 507 and would appreciate your support in urging Senator Lott to put the bill on the calendar.

Enactment of S. 507 would assure that inventors can receive a full 17 years—or more—of patent protection if they pursue their patent claims in a timely manner. It would also streamline patent operations to expedite processing and accelerate the dissemination of new technologies for continuing advancement in products and services.

Significantly, S. 507 achieves these important goals without threatening a return to the ''submarine patent'' system that existed before the 1995 reform. Under the old policy, an inventor could manipulate the patent system to stretch the term even while withholding the new knowledge from society. Prior to 1995, inventors could wait until the technology had ripened, and then essentially extort license fees form another inventor who had independently, in good faith, created the same or a similar invention.

While ''submarine patents'' are infrequent, when they strike, they are egregious. In an HP cases, for example, the company has paid millions of dollars in royatlieis to a Swedish inventor whose patent has expired in every other country except the United States. This inventor contributed nothing to the technology that is in use, in fact, he did not offer to work with the consortium that was developing the technology in an open-systems environment. A more thorough explanation of that case is attached for your review.

Senator Hatch and other supporters of S. 507 have worked diligently with small business and independent inventors to resolve concerns about the bill. It is a good compromise for a more effective patent system as we head into the 21st century. HP urges your support for S. 507 without weakening amendments that would revive the submarine patent system.

Sincerely,

LEW PLATT,
Chairman, President and Chief Executive Officer.

U.S. FOREIGN OIL CONSUMPTION FOR WEEK ENDING JULY 10TH

Mr. HELMS. Mr. President, the American Petroleum Institute has reported that for the week ending July 10 that the U.S. imported 9,323,000 barrels of oil each day, 1,645,000 barrels a day more than the 7,678,000 imported during the same week a year ago.

Americans relied on foreign oil for 59.6 percent of their needs last week. There are no signs that the upward spiral will abate. Before the Persian Gulf War, the United States imported about 45 percent of its oil supply from foreign countries. During the Arab oil embargo in the 1970s, foreign oil accounted for only 35 percent of America's oil supply.

All Americans should ponder the economic calamity certain to occur in the U.S. if and when foreign producers shut off our supply—or double the already enormous cost of imported oil flowing into the U.S.: now 9,323,000 barrels a day at a cost of approximately $104,137,910 a day.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, July 15, 1998, the federal debt stood at $5,529,722,681,857.67 (Five trillion, five hundred twenty-nine billion, seven hundred twenty-two million, six hundred eighty-one thousand, eight hundred fifty-seven dollars and sixty-seven cents).

One year ago, July 15, 1997, the federal debt stood at $5,357,143,000,000 (Five trillion, three hundred fifty-seven billion, one hundred forty-three million).

Five years ago, July 15, 1993, the federal debt stood at $4,333,088,000,000 (Four trillion, three hundred thirty-three billion, eighty-eight million).

Ten years ago, July 15, 1988, the federal debt stood at $2,553,732,000,000 (Two trillion, five hundred fifty-three billion, seven hundred thirty-two million).

Fifteen years ago, July 15, 1983, the federal debt stood at $1,329,911,000,000 (One trillion, three hundred twenty-nine billion, nine hundred eleven million) which reflects a debt increase of more than $4 trillion—$4,199,811,681,857.67 (Four trillion, one hundred ninety-nine billion, eight hundred eleven million, six hundred eighty-one thousand, eight hundred

fifty-seven dollars and sixty-seven cents) during the past 15 years.

ADDITIONAL COSPONSOR—S. 2022

Mrs. MURRAY. Mr. President, I ask unanimous consent that my name be added as a cosponsor of S. 2022, the Crime Identification Technology Act of 1998. Mr. President, inadvertently my name was left out and I was not included as a cosponsor on July 13, 1998, the day I spoke on the Senate floor urging the passage of this bill.

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

30TH ANNIVERSARY OF UMAS OF COLORADO

Mr. CAMPBELL. Mr President, today I take this opportunity to recognize the 30th anniversary and reunion of the United Mexican-American Students of Colorado.

In July 1968, Mexican-American students at the University of Colorado at Boulder came together to discuss the formation of an organization committed to initiating change within the educational system to serve the needs of the Mexican-American community and to recruit minority students to the institution. The outcome of that meeting was the formation of the United Mexican-American Students (UMAS).

Later that same summer, fifty minority students were admitted into a tutorial program initiated by university professors and students to make higher education accessible to African American and Chicano students. UMAS students worked for the program. The Migrant Action Program also brought migrant workers into the university and they also became UMAS members.

A student referendum initiated and supported by UMAS was passed in March 1969 which dedicated five dollars from registration fees each semester to create scholarships for minority students. These funds and federal matching funds allowed UMAS to implement tutorial counseling, recruitment and financial aid programs. On-campus accredited summer remedial programs followed. Students who successfully completed those classes gained admission and earned financial aid.

UMAS has thrived on the Boulder Campus of the University of Colorado for three decades. This summer marks the thirtieth anniversary of the organization. To mark this important anniversary, UMAS alumni and supporters will come together to renew their commitment and unity.

Mr. President, I commend the work of UMAS students and alumni associations for their commitment and continuing efforts to serve deserving students on the Boulder campus of the University of Colorado. As someone who has experienced hardship, I sincerely appreciate the empowerment UMAS has offered to thousands of deserving students.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

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–6048. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Pipeline Safety: Incorporation by Reference of Industry Standard on Leak Detection'' (RIN21137–AD06) received on July 13, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6049. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; General Electric Company GE90 Series Turbofan Engines'' (Docket 98–ANE–17–AD) received on July 13, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6050. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Pratt and Whitney JT9D Series Turbofan Engines'' (Docket 97–ANE–04) received on July 13, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6051. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Rolls-Royce Limited, Aero Division-Bristol, S.N.E.C.M.A., Olympus 593 Series Turbojet Engines'' (Docket 98–ANE-–13–AD) received on July 13, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6052. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A300 Series Airplanes'' (Docket 98-NM–31–AD) received on July 13, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6053. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Regulated Navigation Area: Copper Canyon, Lake Havasu, Colorado'' (Docket 11–97–010) received on July 13, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6054. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Special Local Regulations; World Series of Power Boat Racing on Mission Bay (formerly known as Thunderboat Regatta)'' (Docket 11–98–009) received on July 13, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6055. A communication from the Aberdeen Area Director, Bureau of Indian Affairs, Department of the Interior, transmitting a report on the Aberdeen Area Management, Accounting and Distribution Pilot Project; to the Committee on Indian Affairs.

EC–6056. A communication from the Director of the Office of Rulemaking Coordination, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''Worker Protection Management for DOE Federal and Contractor Employees'' (DOE O 440.1A) received on July 8, 1998; to the Committee on Energy and Natural Resources.

EC–6057. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Food Labeling: Warning and Notice Statement; Labeling of Juice Products'' (RIN0910–AA43) received on July 14, 1998; to the Committee on Labor and Human Resources.

EC–6058. A communication from the Acting Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the cumulative report on rescissions and deferrals for fiscal year 1998 dated July 13, 1998; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, to the Committee on the Budget, to the Committee on Agriculture, Nutrition, and Forestry, to the Committee on Energy and Natural Resources, to the Committee on Finance, to the Committee on Foreign Relations, and to the Committee on Indian Affairs.

EC–6059. A communication from the Director of the Office of Regulatory Management and Information, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; State of Missouri'' (FRL6124–7) received on July 14, 1998; to the Committee on Environment and Public Works.

EC–6060. A communication from the Director of the Office of Regulatory Management and Information, transmitting, pursuant to law, the report of a rule entitled ''Pseudomonas Fluorescens Strain PRA–25; Temporary Exemption From the Requirement of a Tolerance'' (FRL6016–7) received on July 14, 1998; to the Committee on Environment and Public Works.

EC–6061. A communication from the Director of the Office of Regulatory Management and Information, transmitting, pursuant to law, the report of a rule entitled ''Myclobutanil; Extension of Tolerance for Emergency Exemptions'' (FRL6016–8) received on July 14, 1998; to the Committee on Environment and Public Works.

EC–6062. A communication from the Director of the Office of Regulatory Management and Information, transmitting, pursuant to law, the report of a rule entitled ''Fipronil; Pesticide Tolerance'' (FRL5768–3) received on July 14, 1998; to the Committee on Environment and Public Works.

EC–6063. A communication from the Director of the Office of Regulatory Management and Information, transmitting, pursuant to law, the report of a rule regarding the delegation of emission standard enforcement authority to the Arizona Department of Environmental Quality (FRL6123–4) received on July 14, 1998; to the Committee on Environment and Public Works.

EC–6064. A communication from the Acting Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule regarding perch fishery in the Eastern Aleutian Islands (Docket 971208298–8055–02) received on July 14, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6065. A communication from the Associate Managing Director for Performance

Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Commercial Availability of Navigation Devices'' (Docket 97–80) received on July 15, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6066. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule regarding the streamlining of radio technical rules (Docket 98–93) received on July 15, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6067. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of the Orphan Products Board for calendar year 1997; to the Committee on Labor and Human Resources.

EC–6068. A communication from the Acting Assistant General Counsel for Regulations, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''William D. Ford Federal Direct Loan Program'' received on July 14, 1998; to the Committee on Labor and Human Resources.

EC–6069. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Indirect Food Additives: Adhesives and Components of Coatings'' (Docket 90–F–0142) received on July 14, 1998; to the Committee on Labor and Human Resources.

EC–6070. A communication from the Acting Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers (pigments)'' (Docket 97F–0305) received on July 8, 1998; to the Committee on Labor and Human Resources.

EC–6071. A communication from the Acting Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers (stabilizers)'' (Docket 97F–0469) received on July 8, 1998; to the Committee on Labor and Human Resources.

EC–6072. A communication from the Acting Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Indirect Food Additives: Polymers'' (Docket 90F–0435) received on July 8, 1998; to the Committee on Labor and Human Resources.

EC–6073. A communication from the Acting Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers (polyethylene films)'' (Docket 97F–04689) received on July 8, 1998; to the Committee on Labor and Human Resources.

EC–6074. A communication from the Federal Register Liaison Officer, Office of Thrift Supervision, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Disclosure for Adjustable-Rate Mortgage Loans'' (RIN1550–AB12) received on July 14, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–6075. A communication from the Managing Director of the Federal Housing Finance Board, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the Freedom of Information Act Regulation'' (RIN3069–AA71) received on July 14, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–6076. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, certification of a proposed transfer of missiles from Belgium to the Government of Turkey (RSAT–3–98); to the Committee on Foreign Relations.

EC–6077. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, the texts of international agreements other than treaties entered into by the United States (98–90 to 98–100); to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

H.R. 1085. A bill to revise, codify, and enact without substantive change certain general and permanent laws, related to patriotic and national observances, ceremonies, and organizations, as title 36, United States Code, ''Patriotic and National Observances, Ceremonies, and Organizations''.

By Mr. HATCH, from the Committee on the Judiciary, without amendment and with a preamble:

S. Res. 207. A resolution commemorating the 20th anniversary of the founding of the Vietnam Veterans of America.

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. 1134. A bill granting the consent and approval of Congress to an interstate forest fire protection compact.

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 1645. A bill to amend title 18, United States Code, to prohibit taking minors across State lines to avoid laws requiring the involvement of parents in abortion decisions.

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. 2192. A bill to make certain technical corrections to the Trademark Act of 1946.

S. 2193. A bill to implement the provisions of the Trademark Law Treaty.

S.J. Res. 35. A joint resolution granting the consent of Congress to the Pacific Northwest Emergency Management Arrangement.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committee were submitted:

By Mr. HATCH, from the Committee on the Judiciary:

Kim McLean Wardlaw, of California, to be United States Circuit Judge for the Ninth Circuit.

Jose de Jesus Rivera, of Arizona, to be United States Attorney for the District of Arizona for the term of four years.

(The above nominations were reported with the recommendation that they be confirmed.)

By Mr. HELMS, from the Committee on Foreign Relations:

Treaty Doc. 105–43 Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (Exec. Rept. 105–19)

TEXT OF THE COMMITTEE-RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, adopted at Paris on November 21, 1997, by a conference held under the auspices of the Organization for Economic Co-operation and Development (OECD), signed in Paris on December 17, 1997, by the United States and 32 other nations (Treaty Doc. 105–43), subject to the understanding of subsection (a), the declaration of subsection (b), and the provisos of subsection (c).

(a) UNDERSTANDING.—The advice and consent of the Senate is subject to the following understanding, which shall be included in the instrument of ratification and shall be binding on the President:

EXTRADITION.—The United States shall not consider this Convention as the legal basis for extradition to any country with which the United States has no bilateral extradition treaty in force. In such cases where the United States does have a bilateral extradition treaty in force, that treaty shall serve as the legal basis for extradition for offenses covered under this Convention.

(b) DECLARATION.—The advice and consent of the Senate is subject to the following declaration:

TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1998, and Condition (8) of the resolution of ratification of the Document Agreed Among States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(c) PROVISOS.—The advice and consent of the Senate is subject to the following provisos:

(1) ENFORCEMENT AND MONITORING.—On July 1, 1999, and annually thereafter for five years, unless extended by an Act of Congress, the President shall submit to the Committee on Foreign Relations of the Senate, and the Speaker of the House of Representatives, a report that sets out:

(A) RATIFICATION.—A list of the countries that have ratified the Convention, the dates of ratification and entry into force for each country, and a detailed account of U.S. efforts to encourage other nations that are signatories to the Convention to ratify and implement it.

(B) DOMESTIC LEGISLATION IMPLEMENTING THE CONVENTION.—A description of the domestic laws enacted by each Party to the Convention that implement commitments under the Convention, and an assessment of the compatibility of the laws of each country with the requirements of the Convention.

(C) ENFORCEMENT.—An assessment of the measures taken by each Party to fulfill its obligations under this Convention, and to advance its object and purpose, during the previous year. This shall include:

(1) an assessment of the enforcement by each Party of its domestic laws implementing the obligations of the Convention, including its efforts to:

(i) investigate and prosecute cases of bribery of foreign public officials, including cases involving its own citizens;

(ii) provide sufficient resources to enforce its obligations under the Convention;

(iii) share information among the Parties to the Convention relating to natural and legal persons prosecuted or subjected to civil or administrative proceedings pursuant to enforcement of the Convention; and

(iv) respond to requests for mutual legal assistance or extradition relating to bribery of foreign public officials.

(2) an assessment of the efforts of each Party to:

(i) extradite its own nationals for bribery of foreign public officials;

(ii) make public the names of natural and legal persons that have been found to violate its domestic laws implementing this Convention; and

(iii) make public pronouncements, particularly to affected businesses, in support of obligations under this Convention.

(3) an assessment of the effectiveness, transparency, and viability of the OECD monitoring process, including its inclusion of input from the private sector and non-governmental organizations.

(D) LAWS PROHIBITING TAX DEDUCTION OF BRIBES.—An explanation of the domestic laws enacted by each signatory to the Convention that would prohibit the deduction of bribes in the computation of domestic taxes. This shall include:

(i) the jurisdictional reach of the country's judicial system;

(ii) the definition of ''bribery'' in the tax code;

(iii) the definition of ''foreign public official'' in the tax code; and

(iv) the legal standard used to disallow such a deduction.

(E) FUTURE NEGOTIATIONS.—A description of the future work of the Parties to the Convention to expand the definition of ''foreign public official'' and to assess other areas where the Convention could be amended to decrease bribery and other corrupt activities. This shall include:

(1) a description of efforts by the United States to amend the Convention to require countries to expand the definition of ''foreign public official,'' so as to make illegal the bribery of:

(i) foreign political parties or party officials,

(ii) candidates for foreign political office, and

(iii) immediate family members of foreign public officials.

(2) an assessment of the likelihood of successfully negotiating the amendments set out in paragraph (1), including progress made by the Parties during the most recent annual meeting of the OECD Ministers; and

(3) an assessment of the potential for expanding the Convention in the following areas:

(i) bribery of foreign public officials as a predicate offense for money laundering legislation;

(ii) the role of foreign subsidiaries and offshore centers in bribery transactions; and

(iii) private sector corruption and corruption of officials for purposes other than to obtain or retain business.

(F) EXPANDED MEMBERSHIP.—A description of U.S. efforts to encourage other non-OECD member to sign, ratify, implement, and enforce the Convention.

(G) CLASSIFIED ANNEX.—A classified annex to the report, listing those foreign corporations or entities the President has credible national security information indicating they are engaging in activities prohibited by the Convention.

(2) MUTUAL LEGAL ASSISTANCE.—When the United States receives a request for assistance under Article 9 from a country with which it has in force a bilateral treaty for mutual legal assistance in criminal matters, the bilateral treaty will provide the legal basis for responding to that request. In any case of assistance sought from the United States under Article 9, the United States shall, consistent with U.S. laws, relevant treaties and arrangements, deny assistance where granting the assistance sought would prejudice its essential public policy interests, including cases where the Responsible Authority, after consultation with all appropriate intelligence, anti-narcotic, and foreign policy agencies, has specific information that a senior government official who will have access to information to be provided under this Convention is engaged in a felony, including the facilitation of the production or distribution of illegal drugs.

(3) SUPREMACY OF THE CONSTITUTION.—Nothing in the Convention requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

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. CHAFEE (by request):

S. 2317. A bill to improve the National Wildlife Refuge System, and for other purposes; to the Committee on Environment and Public Works.

By Mr. CAMPBELL:

S. 2318. A bill to amend the Internal Revenue Code of 1986 to phaseout the estate and gift taxes over a 10-year period; to the Committee on Finance.

By Mr. CHAFEE (for himself, Mr. BAUCUS, Mr. BREAUX, and Mr. COCHRAN):

S. 2319. A bill to authorize the use of receipts from the sale of migratory bird hunting and conservation stamps to promote additional stamp purchases; to the Committee on Environment and Public Works.

By Mr. HOLLINGS (for himself and Mr. THURMOND):

S. 2320. A bill to amend the Employee Retirement Income Security Act of 1974 to clarify that an individual account plan shall not be treated as requiring investment in employer securities if an employee can withdraw an equivalent amount from the plan; to the Committee on Finance.

By Mr. REID:

S. 2321. A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the design, planning, and construction of the Truckee Watershed Reclamation Project for the reclamation and reuse of water; to the Committee on Energy and Natural Resources.

By Mr. BREAUX (for himself, Mr. NICKLES, and Mr. HELMS):

S. 2322. A bill to amend the Internal Revenue Code of 1986 to change the determination of the 50,000-barrel refinery limitation on oil depletion deduction from a daily basis to an annual average daily basis; to the Committee on Finance.

By Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. BREAUX, Mr. ROCKEFELLER, Mr. JEFFORDS, Mr. MACK, Mr. KERREY, Mr. MURKOWSKI, Ms. LANDRIEU, Mr. FAIRCLOTH, Mr. HOLLINGS, Mr. BURNS, Mr. HAGEL, Mrs. HUTCHISON, Mr. LEAHY, Mr. HATCH, Mr. GRAHAM, Mr. BINGAMAN, Mr. DOMENICI, Mr. ROBB, and Mr. SANTORUM):

S. 2323. A bill to amend title XVIII of the Social Security Act to preserve access to home health services under the medicare program; to the Committee on Finance.

By Mr. DURBIN (for himself, Mr. CHAFEE, Mr. LAUTENBERG, Mr. TORRICELLI, Mr. REED, and Mrs. BOXER):

S. 2324. A bill to amend section 922(t) of title 18, United States Code, to require the reporting of information to the chief law enforcement officer of the buyer's residence and to require a minimum 72-hour waiting period before the purchase of a handgun, and for other purposes; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CAMPBELL:

S. 2318. A bill to amend the Internal Revenue Code of 1986 to phaseout the estate and gift taxes over a 10-year period; to the Committee on Finance.

ESTATE AND GIFT TAX RATE REDUCTION ACT OF 1998

Mr. CAMPBELL. Mr. President. It seems that in every Congress the issue of ''death taxes'' comes before this body at some time. Each year we tinker around the edges of the issue, making adjustments here and exemptions there. But the fact is, estate and gift taxes still remain a burden on American families, particularly those who own their own businesses.

Family-owned businesses are hit with the highest tax rate when they are handed down to descendants. In fact, the highest estate and gift tax rate is fifty-five percent—that's far higher than even the highest income tax rate bracket of thirty-nine percent. Estate and gift taxes right now are one of the leading reasons why family farms and small businesses are declining; the burden of the inheritance tax is just too crushing. That hardly seems fair to me. It also seems to suggest that families should spend as much money as they can while they are still alive, since whatever they have managed to save will create a huge tax burden when passed on to their descendants.

That is why today I am introducing the Estate and Gift Tax Rate Reduction Act of 1998, which will gradually eliminate this tax burden. That's right, I said eliminate, not reduce. This bill will phase-out the estate and gift tax by gradually reducing the amount of the tax by five percent each year until the highest rate—55%—reaches zero. Several states have already taken the initiative and phased out this type of tax on their own. I think it's time we follow the example they have set, and eliminate them across the board. At the same time, we will be encouraging better investment, savings and retirement planning by relieving the threat of an impending tax crisis.

This legislation is a companion bill to H.R. 3879, introduced by our colleague in the House, Congresswoman JENNIFER DUNN. I hope my colleagues will support passage of this bill, and will join me in putting a real end to this oppressive and unfair tax.

I ask unanimous consent that the bill be printed in the RECORD.

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

S. 2318

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 ''Estate and Gift Tax Rate Reduction Act of 1998''.

SEC. 2. FINDINGS.

The Congress finds and declares that—

(1) estate and gift tax rates, which reach as high as 55 percent of a decedent's taxable estate, are in most cases substantially in excess of the tax rates imposed on the same amount of regular income and capital gains income; and

(2) a reduction in estate and gift tax rates to a level more comparable with the rates of tax imposed on regular income and capital gains income will make the estate and gift tax less confiscatory and mitigate its negative impacts on American families and businesses.

SEC. 3. PHASEOUT OF ESTATE AND GIFT TAXES.

(a) REPEAL OF ESTATE AND GIFT TAXES.—Subtitle B of the Internal Revenue Code of 1986 (relating to estate and gift taxes) is repealed effective with respect to estates of decedents dying, and gifts made, after December 31, 2008.

(b) PHASEOUT OF TAX.—Subsection (c) of section 2001 of such Code (relating to imposition and rate of tax) is amended by adding at the end the following new paragraph:

''(3) PHASEOUT OF TAX.—In the case of estates of decedents dying, and gifts made, during any calendar year after 1998 and before 2009—

''(A) IN GENERAL.—The tentative tax under this subsection shall be determined by using a table prescribed by the Secretary (in lieu of using the table contained in paragraph (1)) which is the same as such table; except that—

''(i) each of the rates of tax shall be reduced (but not below zero) by the number of percentage points determined under subparagraph (B), and

''(ii) the amounts setting forth the tax shall be adjusted to the extent necessary to reflect the adjustments under clause (i).

''(B) PERCENTAGE POINTS OF REDUCTION.—

''For calendar year:	The number of percentage points is:
1999	5
2000	10
2001	15
2002	20
2003	25
2004	30
2005	35
2006	40
2007	45
2008	50.

''(C) COORDINATION WITH PARAGRAPH (2).—Paragraph (2) shall be applied by reducing the 55 percent percentage contained therein by the number of percentage points determined for such calendar year under subparagraph (B).

''(D) COORDINATION WITH CREDIT FOR STATE DEATH TAXES.—Rules similar to the rules of subparagraph (A) shall apply to the table contained in section 2011(b) except that the number of percentage points referred to in subparagraph (A)(i) shall be determined under the following table:

''For calendar year:	The number of percentage points is:
1999	1½
2000	3
2001	4½
2002	6
2003	7½
2004	9
2005	10½
2006	12
2007	13½
2008	15.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying, and gifts made, after December 31, 1998.

By Mr. REID:

S. 2321. A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the design, planning, and construction of the Truckee Watershed Reclamation Project for the reclamation and reuse of water; to the Committee on Energy and Natural Resources.

TRUCKEE RIVER WATERSHED RECLAMATION PROJECT LEGISLATION

Mr. REID. Mr. President, I introduce today a bill to authorize the Truckee River Watershed Reclamation Project. The water in Nevada is a precious resource that should not be wasted and we need to reuse what we can of this commodity. The Title XVI program in the Bureau of Reclamation is aimed at reclaiming the water for use within the community. The projects that are within this watershed project will in fact be utilized in multiple municipal functions throughout the Truckee River Basin communities.

Specifically, the North Valleys Reuse Project would be to reclaim the wastewater from Reno and Sparks and convey that water to subdivisions extending to the north of Reno for irrigation purposes so that the groundwater can be preserved for domestic and other potable uses. Once the new effluent reuse system is operational, groundwater currently used for irrigation can then be a reliable source in a region with limited resources. Additionally, the Spanish Springs Valley Reuse Project would use treated wastewater with excessive total dissolved solids to be channeled for irrigation and environmental watering. The treated wastewater would be returned to the valley where numerous parks, golf courses, pastures could be irrigated with effluent reducing the quantity of groundwater pumped and improving the quality of the aquifer. Another aspect of this reclamation effort is the protection of the scarce resource during emergency conditions, increases the reliability of domestic water supply in the event of a toxic spill into the Truckee River through a series of optional programs in cooperation with the regional and community resource planners. When this project is authorized and appropriated for the counties can begin their feasibility studies of their projects and programs within its Regional Water Management Plan.

Mr. President, as the ranking member on the Energy and Water Development Appropriations, I have the opportunity to examine closely the Bureau of Reclamation's programs and I appreciate the assistance the Bureau gives to communities throughout the arid west. The first project initiated by the Bureau of Reclamation was in Nevada called the Newlands Project and Nevada communities have benefited from the Federal assistance in water management. Now, the Bureau of Reclamation Title XVI program can be of immeasurable value to the communities in the Truckee River Watershed to preserve and reclaim some of this precious resource.

By Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. BREAUX, Mr. ROCKEFELLER, Mr. JEFFORDS, Mr. MACK, Mr. KERREY, Mr. MURKOWSKI, Ms. LANDRIEU, Mr. FAIRCLOTH, Mr. HOLLINGS, Mr. BURNS, Mr. HAGEL, Mrs. HUTCHISON, Mr. LEAHY, Mr. HATCH, Mr. GRAHAM, Mr. BINGAMAN, Mr. DOMENICI, Mr. ROBB, and Mr. SANTORUM):

S. 2323. A bill to amend title XVIII of the Social Security Act to preserve access to home health services under the Medicare Program; to the Committee on Finance.

HOME HEALTH ACCESS PRESERVATION ACT OF 1998

Mr. GRASSLEY. Mr. President, I rise today in support of the Home Health Access Preservation Act of 1998, which I am introducing today. I have been deeply involved in home care issues throughout my career, and that involvement has deepened in the past year. It was 1 year ago that the Special Committee on Aging, which I chair held a hearing on fraud and abuse of the Medicare home health benefit. That led to a roundtable, where we brainstormed on solutions to that problem. That discussion led to turn to a bill, the Home Health Integrity Preservation Act of 1998, which I was proud to cosponsor with Senator BREAUX.

In March of this year, the Aging Committee held another hearing on home health. This hearing focused on the Balanced Budget Act provisions affecting seniors' access to home care. At this hearing, we learned of the serious problems being caused by the Health Care Financing Administration's surety bond regulations, as well as by the Interim Payment System for home health. Like the earlier hearing, this hearing led to two pieces of legislation. The first was Senate Joint Resolution 50, which would have vetoed the surety bond regulation. I was pleased that this effort brought the administration to the bargaining table, and I believe that the surety bond problem will be solved as we work together.

The second piece of legislation to come out of that hearing is the bill I am introducing today. It addresses a major piece of unfinished business in the home health area, and that is the Interim Payment System. What's wrong with that system? In short, it bases payment on an individual home health agency's historical costs from Fiscal Year 1994. That means that if the agency had high cost per patient in that year, it can receive relatively high payment this year. However, if the agency had low costs in that year, its payments this year is severely limited.

This approach would be fine if the Health Care Financing Administration knew that the higher-cost agency had sicker patients this year, but the sad truth is that HCFA has no idea. So the interim system has been a windfall for

some agencies, but crushing for agencies with low historical costs. In Iowa, we are blessed with many efficient providers, but this system seems to prove the old adage that ''No good deed goes unpunished.'' In many cases, the providers who are suffering—and more importantly, whose patients are suffering—are those who most want to keep in the Medicare program.

Another feature of the system is that it treats older and newer home health providers in completely different ways. In some areas of the country, new agencies simply cannot compete with older agencies, while in other areas (such as Iowa), it is the older agencies that are at the disadvantage. This kind of arbitrary distinction just doesn't make sense.

For months, I have worked with a bipartisan group of Finance Committee members on fixing the Interim Payment System. This bill is the product of those efforts. Believe me, if this were an easy issue to tackle, I would have introduced this bill months ago. Instead, we have gone to great lengths to get input from home health providers, as well as from a broad range of Senate colleagues. Those efforts have paid off, and I am gratified to be introducing the bill with seventeen original cosponsors, and maybe more by the end of the day.

The bill has a number of features, but its basic approach is to abandon our reliance on individual agencies' historical costs. Instead, it would pay all agencies—old or new—based on a 50/50 blend of national and regional average rates from the 1994 base year. This 50/50 blend is the only approach that can win support from all parts of the country. In addition, the bill seeks to provide supplemental payments for patients with long stays as home care recipients. We think it is essential that agencies be compensated for taking these neediest patients.

The bill is budget-neutral, which in my opinion it has to be in order to have a chance of passage. There is a great deal of concern, which I share, about the automatic 15 percent cut in all home health payment that will occur in October 1999. We did consider an attempt to address that cut in this bill, but the cosponsors have learned from the Congressional Budget Office that, under its methodology, such language would send the bill's costs skyrocketing. We think that this would doom the bill's chances of enactment this year. We do believe that there is a crisis that needs to be addressed this year, and thus we have not included the 15 percent provision in the bill. I will urge the Senate to revisit that issue next year, when we'll have more information on home health cost growth or decline, but for now it cannot be addressed.

If there was any doubt about the need for action to rectify the Interim Payment System, I believe that it has vanished with the administration's recent indications that prospective payment will not be ready in October 1999, as mandated by Congress. Just this morning, at a hearing of the House Ways and Means Subcommittee on Health, the administrator of HCFA confirmed that the Year 2000 computer problem has made meeting the deadline totally impossible. In fact, at HCFA's suggestion, we have written the per-beneficiary limit numbers into the bill itself, so that HCFA will not need to issue a regulation in order to implement the bill. HCFA just doesn't think it could issue a regulation doing so, in light of its Year 2000 problems. The fact is that we do not know when prospective payment will be ready. We had better do what we can now, to make sure our agencies can hang on until that day.

Let me make a comment about political realities. Our focus was on creating something that could actually pass this year, and so the bill is a product of compromise. In talking with home health providers, I find that many of them understand the need to be realists. I wish that the big national associations were equally reasonable. It is already the middle of July. This bill's moderate approach is the only one that has any chance of moving this year. If there really is an emergency in home health, which I believe, then everyone needs to get serious right now. Let me be more explicit: I call on the home health industry to recognize that this approach is as good as it's gong to get, and to support it. I call on HCFA to make fixing this system a top, near-term priority. And I call on my colleagues here in Congress to unite around a moderate, feasible formula. Our Nation's seniors and disabled are waiting for us.

Mr. BAUCUS. Mr. President, today I am introducing a bill, along with Senator GRASSLEY, Senator ROCKEFELLER and Senator BREAUX, the Home Health Access Preservation Act of 1998. Essentially, our legislation is geared at reforming the home health interim payment system.

Several years ago, because home health care costs were rising at such a rapid, alarming rate, Congress, in the Balanced Budget Act of 1997, decided to do something about it. What did we do? We passed a provision called the interim payment system as a transition interim system for home health care agencies to live under until we move to a prospective payment system.

What does all that mean? It is this: In the first 15 years of Medicare, home health care constituted about 2 percent of the total Medicare budget. Medicare, as we know, is the program that is financed almost entirely out of payroll taxes. Those dollars go to Uncle Sam, and Uncle Sam then pays hospitals and doctors for health care for senior citizens. Part A is hospital care; Part B is doctor's care for senior citizens. Again, only 2 percent of Part A of Medicare—that is the hospital part—was for home health care.

In 1997, however, the total amount of Medicare Part A dollars—that is, the hospital dollars that go out to senior citizens—was about 15 percent. That is a rise from 2 percent up to 15 percent, a staggering increase in home health care.

Why did that happen? Basically, because hospitals were moving patients out of hospitals. They were moving some of the patients into home health care settings. In addition to that, it was a lot cheaper to provide some services out of the hospitals. And, on top of that, seniors prefer to have care at home rather than sometimes in the hospital or perhaps in a nursing home. Home health care has risen dramatically.

Well, as a consequence, there has been extra pressure on the Medicare trust fund. And that is why Congress, in 1997, decided to pass this provision, changing the way we reimburse home health care and moving to a system to try to get a handle on all this rising cost.

The old way that Medicare paid home health care was called cost-based reimbursement. Essentially, a home health care agency would get reimbursed, get paid, for the costs that that home health care agency incurred in treating patients—basically cost-plus; that is, the agency would get whatever it cost and was able to add on just a little bit to stay in business.

As a consequence, several phenomena developed.

In some States, there was a proliferation of home health care agencies. They just sprung up all over because they are cost based. In addition to getting more patients to get reimbursed more, they provide more services to the public.

In some other States, home health care agencies were very efficient; that is, they did their work, and they did not try to provide extra services, nor did they get extra reimbursement.

We are in a position now where the interim system that Congress passed in 1997 is causing problems, and significant problems, for all home health care agencies, in particularly those rural areas. Why is that? It is because the provision we passed, the interim payment system, provided that home health care agencies would be paid on whatever their costs were in 1994.

Well, that means that those home health care agencies that were very efficient in 1994, compared with those who were very inefficient in 1994, are adversely affected. Why is that? That is because, if the payment is based upon 1994 levels, and it is locked in at 1994 levels, and you are a very efficient home health care agency—you are cutting costs—then you are paid less.

On the other hand, if you were a very inefficient home health care agency in 1994, and you are locked into whatever Uncle Sam was paying you in 1994, you can continue to be inefficient. Well, that is obviously not fair. It is not fair to those home health care agencies who were doing a pretty good job.

In addition, there is another problem. The movement from cost-based reimbursement over to what is called a prospective payment reimbursement—that is, paying home health care agencies a certain payment for a given procedure regardless of what else is going on with the agency—is based on the assumption that the efficient home health care agencies, the efficient providers—hospitals are also paid on a prospective payment system—that is, the efficient ones will survive, they will do well; the inefficient, those that are getting the same dollars but are inefficiently run, poorly run, will fail, they will not be able to make it.

That is good—the theory is—because the efficient survive and the inefficient don't. The theory goes on to hold that, well, that is OK for patients, for people, because when the inefficient fails, there is a nearby efficient hospital, or nearby efficient home health care agency in this case. So patients are still well served. They just go to the other, nearby, efficient home health care agency.

That is a false assumption, Mr. President, for rural areas, because in rural areas of America, when an inefficient fails—or for some other reason that home health care agency cannot make ends meet—when it fails, there is no other nearby home health care agency, there is no nearby alternative provider because they are just too many miles apart.

We, Mr. President, are introducing legislation designed to fix this problem until we finally move to a more permanent compensation system for rural health care agencies. Essentially, what it does is, we say to a State, we are going to have a single rate per State, not differential among States, but per State. We also get rid of the cap on agency-specific costs, because we move to a 50–50 blend of regional as well as national averages.

That is, I think, a fair compromise between those who want fixed costs based on a national rate and those who want the rate to be based upon the particular characteristics of the region.

I think this helps. I think it goes a long way to solving the problem that many home health care agencies have. This, by the way, is in addition to the surety bond problem facing home health care agencies, another matter which we are addressing separately.

But I hope this interim measure that we are now reforming will be reformed along the way to provide for, in the bill, making sure that a lot of people get health care who otherwise would not have it available.

Mr. ROCKEFELLER. Mr. President, I rise today to join a number of my colleagues, and most especially Senators GRASSLEY, BAUCUS, and BREAUX, in introducing the ''Home Health Care Access Preservation Act of 1998.'' This legislation seeks to prevent many reputable home health agencies from going out of business and it will ensure that patients continue to have access to quality home care in the future.

I would like to talk about the importance of health care in the lives of our Nation's seniors and why we must take action to protect their access to home care. Some people question why we need to make these changes. I think they ask because when we talk about providing care, sometimes we forget that it is about taking care of someone. Home care is not just about giving people their pills and checking their blood pressure. It's about giving people who need a little help the ability to stay at home, surrounded by their family and friends. It's about preserving the dignity of people who've worked hard their entire lives to provide for their families and serve the community they live in.

Mr. President, our seniors should not lose their right to live life in the way they want because of their age. They want to stay at home. They can get the care they need at home. We can provide it for them. And if we can do it, I think we should.

There are also financial reasons to provide home health care. When managed properly, home health care can save the health system money. Homes care can often be substituted for more expensive care provided in hospitals and nursing homes.

Last year, the Congress made needed reforms to the Medicare Program through the Balanced Budget Act, including moving to a prospective payment system (PPS) for home care. Everyone, including the home health industry, agrees that the Medicare Program should move away from a retrospective payment system and PPS to encourage all providers to be more cost-effective.

The move toward PPS was included among many other reforms to Medicare. We, however, knew that we couldn't move directly into PPS—we needed time and more information to create a workable system. Therefore, the Interim Payment System (IPS) was also established in the BBA to transition home care from fee-for-service to prospective payment. But, in making these changes, the future viability of home health care has been threatened.

Already, at least four home health agencies have gone out of business in my home State of West Virginia. In rural states like West Virginia, sometimes there is only one agency to provide these services in the area. We cannot afford to lose providers without endangering the well-being of our citizens.

Therefore, it is imperative that we again take action to make sure that the home health care problems we're facing today do not become a crisis that we'll have to face in the near future. This legislation will help do just that.

This bill attempts to accomplish three critical goals:

1. Keep agencies viable by providing a badly needed bridge between the old home health payment system and the new system due to be implemented in the next several years.

2. Level the playing field in the home care industry, ensuring that efficient, low cost providers are able to continue providing services as Medicare transitions to a new payment system.

3. Make certain that patients with chronic health needs have continued access to quality care.

Many members of the home health industry are particularly concerned about this issue of providing quality health care to patients with chronic conditions. Under current law, caring for the chronically ill pushes home health agencies closer to the brink of bankruptcy. We share that concern and realize that IPS does not address this issue. As a result, our bill creates supplemental payments to compensate home health agencies for the added costs they incur caring for the chronically ill.

While this bill would address the immediate concerns faced by the home health care industry, and is an important step toward protecting access—there is still more that needs to be done. While the BBA intended for IPS to be a temporary system, it now looks like it may be in place longer than we expected. I have recently learned that HCFA may have to postpone the implementation of the prospective payment system. They will have their hands full restructuring their computer systems to prepare for the year 2000. I remain concerned that if we do not move to PPS quickly, all agencies will face an additional 15 percent across the board cut. Certainly, this will place an undue financial burden on the agencies and force many to close their doors.

Mr. President, I am not advocating going back in time and undo the BBA. However, we must address the inequities that resulted from its enactment, particularly when it comes to making certain our seniors get the care they need. To do this, we must level the playing field so that all reputable home health care agencies can remain competitive. Our legislation will accomplish this by providing a bridge between the old Medicare payment system and the new one.

We have to remain watchful of the situation to make sure that home health care continues to be a viable option for so many in need. We have a commitment to those who came before us and sacrificed so much to make this Nation what it is today. I believe that we have to honor that commitment, and I urge my colleagues to do so by supporting the Home Health Care Access Preservation Act.

Mr. JEFFORDS. Mr. President, I rise to once again express my concern over the plight of Medicare beneficiaries who are in need of home health care services. I am pleased to cosponsor the Home Health Access Preservation Act of 1998, with my colleagues on the Senate Finance Committee, as an attempt to address these concerns. The Interim Payment System which was enacted by this Congress for the reimbursement of home health care services is not

achieving the policy goals that Congress wants nor is it not serving the best interest of American citizens.

The act is appropriately titled because, without a correction, access to home health services for Medicare's most vulnerable beneficiaries will be seriously damaged. Since the new reimbursement system has been implemented, no fewer than 1,200 agencies have left Medicare program and most of these 1,200 have been forced to cease operations. Although many of our health policy actions are based upon allowing the market to determine the optimum efficiency of our health care system, we must recognize that not all areas and all sectors are prepared for a rapid change in how these forces operate. The problem of access to home care is particularly troublesome in rural areas and inner cities where these services are sorely needed.

My home State of Vermont is a case in point. Home health agencies and their patients are facing a true crisis. There are only 13 agencies in the State, all not-for-profit, each serving a distinct and separate area. The system was developed to meet the needs of our largely rural State, and all of these agencies have a long tradition of providing quality care to our citizens. We cannot accept the loss of a single agency without serious consequences for patients and other sectors of care.

I want to emphasize that today we are proposing a revision to the home health reimbursement system because of our deep concern for the welfare of those frail elders and disabled individuals who have come to depend upon home care for their very existence. Yes, we are concerned about fiscal responsibility. We remain determined to eliminate fraud and abuse within the Medicare program. Of course, we must find a way to preserve the Medicare Trust Fund for future generations. But it is not acceptable to seek these goals by any mechanism that will impose an even greater burden on those who are most in need of our help.

The Home Health Access Preservation Act of 1998 is budget neutral. It does not change the fact that home health agencies will have to work hard to remain financially viable and allocate their resources carefully. The Act does, however, level the playing field for home health agencies. Under the present IPS system, agencies in close proximity to one another are expected to operate competitively under highly divergent payment limits. Furthermore, under the current IPS system, the most efficient agencies and those that care for the most difficult cases, are hit hardest by the reduction in reimbursement. Thus the Act does provide some relief for agencies in the worst predicament.

Finally, it is important to recognize that the Home Health Access Preservation Act represents an interim resolution to our most pressing concerns. The implementation of a prospective payment system as directed by Congress represents the preferred solution. Thus, the bill requires the Secretary to provide regular quarterly updates to Congress on progress toward the development of the prospective payment system for home health care. But for now, Congress must pass legislation to ensure that home care remains an option for Medicare beneficiaries. We also must pledge to work with the Health Care Financing Administration and the home health industry to replace the interim payment system with a permanent system which better meets the needs of patients and is fair to health care providers.

This Congress struggles with many challenges, but I doubt that there are many that are of greater significance than home health care. Access to home care affects a significant number of persons, has a serious influence on their mental and physical health, and its financial impact is measured in billions of dollars. We must act. We must act quickly to curtail the negative consequences of the payment system as it exists today.

By Mr. DURBIN (for himself, Mr. CHAFEE, Mr. LAUTENBERG, Mr. TORRICELLI, Mr. REED, and Mrs. BOXER):

S. 2324. A bill to amend section 922(t) of title 18, United States Code, to require the reporting of information to the chief law enforcement officer of the buyer's residence and to require a minimum 72-hour waiting period before the purchase of a handgun, and for other purposes; to the Committee on the Judiciary.

THE BRADY WAITING PERIOD EXTENSION ACT OF 1998

• Mr. DURBIN. Mr. President, today I with my colleagues Senators CHAFEE, LAUTENBERG, TORRICELLI, REED, DODD, and BOXER introduce the ''Brady Waiting Period Extension Act of 1998.'' It is vital that we enact this measure this year if we are to ensure Americans that the popular Brady Bill will continue to be one hundred percent effective.

Almost 5 years ago, Congress passed the Brady Bill. That law contained a provision that required a 5 day waiting period before a person can buy a gun. Unfortunately, on November 30 of this year, the waiting period will be eliminated when we begin using the national instant check system for gun purchasers.

I fully support the use of an instant check system to determine if a putative firearm purchaser is legally barred from owning a gun because of a criminal record. But I believe that it must be coupled with a cooling off period.

Let me briefly explain what his legislation would to. It would require that anyone who wishes to buy a handgun must wait three days. There are two exceptions to this requirement. First, if a prospective purchaser presents a written statement from his of her local chief law enforcement officer stating that the handgun is needed immediately because of a threat to that person's life or that of his family, then the cooling off period will not apply. Second, if a prospective purchaser lives in a state that has a licensing requirement—and there are 27 such states—then the federal cooling off period will not apply.

I think that both of these are common sense exceptions. Obviously people who have a legitimate and immediate need of a handgun for self-defense should be able to buy one. And in the states that have licensing or permit systems, the process of getting a permit acts as a state cooling off period.

This measure also requires that when a person applies to buy a gun that the gun shop owner send a copy of the application to the local chief law enforcement officer. In addition, it alters the amount of time that the state or federal government has to investigate a potential purchaser who has an arrest record. Under the law that will go into effect on the first of December this year, if a person with an arrest record applies for a gun, law enforcement will have three days to determine if that arrest resulted in a conviction. The measure we introduce today would give law enforcement five days.

Mr. President, let me walk you through the process of buying a gun if this law were in place.

If you are in a state that does not have a permit system in place, then you go into a store and fill out a purchase form. A copy of that form will be sent to the Insta-Check point of contact for your state and a copy will also be sent to the chief law enforcement officer for where you live. You will then need to wait three days whereupon, assuming that you do not have a criminal record or any of the other disqualifying characteristics, you will be able to pick up your gun.

If on the other hand, when the Insta-Check is run, the FBI learns that you were arrested, then you will have to wait at least 5 days. That five days will be used to determine if the arrest resulted in a conviction. If it did not, then after 5 days you can get your gun. It you were arrested and convicted then you cannot get your gun and may be prosecuted.

Enacting this law is only sensible. A cooling off period may be the only barrier between a woman and her abusive husband whose local restraining order doesn't show up on a computer check or the only obstacle in the way of a troubled person planning to commit suicide and take others with them. A cooling off period will prevent crimes of passion and spontaneous suicides. The list of people who have bought guns and used them within a few hours or a day to kill themselves or others is far too long.

A recent study by the Center to Prevent Handgun Violence demonstrates a disturbing trend that reinforces the need for a cooling off period. Normally, 4 to 5% of all crime guns traced by the police were used in murders. But the

study found that 20% of all guns traced within 7 days of purchase were used in murders. That is a startlingly high incidence of guns being bought and used very soon thereafter to commit a murder.

But this measure has a second, equally important justification.

That the Insta-Check system is in very good shape, but it will never be perfect. For example, it will not have a lot of mental health records. And it is unlikely to have information like restraining orders entered in domestic violence cases. Letting local law enforcement know about a potential gun purchase is a good idea—the local sheriff may know that a person trying to buy a gun has a restraining order while the FBI's Insta-check computer might not. In short, then, this bill will help serve as a fail safe mechanism for the Insta-Check system. I for one do not want to learn a year from now that someone got a gun and used it to harm someone else when a simple check of local records in addition to the Insta-Check would have revealed that the purchaser had a history of mental instability.

Making the Brady waiting period permanent is not about more government. It's about fewer gun crime victims. I hope that we can all agree on this goal.

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. 2324

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 referred to as the ''Brady Waiting Period Extension Act of 1998''.

SEC. 2. ESTABLISHMENT OF MINIMUM 72-HOUR HANDGUN PURCHASE WAITING PERIOD.

Section 922(t) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) by striking ''before the completion of the transfer, the licensee'' and inserting ''after the most recent proposal of the transfer by the transferee, the licensee, as expeditiously as is feasible''; and

(ii) by inserting ''and the chief law enforcement officer of the place of residence of the transferee'' after ''Act'';

(B) in subparagraph (B)(ii)—

(i) by striking ''3'' and inserting ''5''; and

(ii) by striking ''and'' at the end;

(C) in subparagraph (C), by striking the period at the end and inserting ''; and''; and

(D) by adding at the end the following:

''(D) if the firearm is a handgun—

''(i) not less than 72 hours have elapsed since the licensee contacted the system;

''(ii) the transferee has presented to the transferor a written statement, issued by the chief law enforcement officer of the place of residence of the transferee during the 10-day period ending on the date of the most recent proposal of such transfer by the transferee, stating that the transferee requires access to a handgun because of a threat to the life of the transferee or of a member of the household of the transferee; or

''(iii) the law of the State in which the proposed transfer will occur requires, before any licensed importer, licensed manufacturer, or licensed dealer completes the transfer of a handgun to an individual who is not licensed under section 923, that an authorized State or local official verify that the information available to the official does not indicate that possession of a handgun by the transferee would be in violation of the law, and the authorized State or local official has provided such verification in accordance with that law.''; and

(2) by adding at the end the following:

''(7) In this subsection, the term 'chief law enforcement officer' means the chief of police, the sheriff, or an equivalent officer of a law enforcement agency, or the designee of any such officer.

''(8) A chief law enforcement officer who is contacted under paragraph (1)(A) with respect to the proposed transfer of a firearm shall, not later than 20 business days after the date on which the contact occurs, destroy any statement or other record containing information derived from the contact, unless the chief law enforcement officer determines that the transfer would violate Federal, State, or local law.

''(9) The Secretary of the Treasury shall promulgate regulations regarding the manner in which information shall be transmitted by licensees to the national instant criminal background check system under paragraph (1)(A).''.

● Mr. LAUTENBERG. Mr. President, I am pleased to join with Senator DURBIN in introducing the Brady Waiting Period Extension Act of 1998.

This legislation will build on the incredible success of the original Brady Act, which I cosponsored. Since that law went into effect in February 1994, our hard-working law enforcement officers have prevented more than 240,000 felons, domestic abusers, and mentally ill people from buying guns. In 1997 alone, 69,000 prohibited purchases were stopped. Because of the Brady Act, and the Domestic Violence Gun Ban which I authored, over 6,000 criminals convicted of domestic violence offenses were prevented from buying a gun last year.

These laws are working. They are saving countless lives, helping to protect women and children, and making our streets safer. Just imagine how much more gun violence there would have been, if these gun purchases had not been stopped.

And the Brady Act does more than just stop handgun purchases—it helps the police put violent criminals behind bars. Consider just a few examples:

The Brady Law stopped a handgun sale in Colorado to a man who was wanted for armed robbery in the State of Washington. As a result of the Brady check, he was arrested in Colorado and extradited back to Washington.

In Utah, an individual trying to purchase a handgun from a pawn dealer was arrested by the Salt Lake City Police Department on a felony warrant held by the State of Colorado for aggravated sexual abuse of a child.

Incredibly, criminals continue to try to buy guns at gun stores. But thanks to the Brady Law, they do not get the deadly tools of their trade, and lives are saved.

The legislation I am introducing today will build upon this success. As my colleagues know, the five-day waiting period for handgun purchases will expire in November of this year, and be replaced with a computerized background check system. While we all hope that this computerized system will work well, there are some potential problems. The Department of Justice and the FBI have done a good job centralizing most crime record, but some information, like restraining orders and mental health records, will not be available through the system.

Our bill will ensure that no criminals slip through the system, by requiring that the Brady forms be sent to the chief law enforcement officer where the buyer resides. This requirement will give local police the opportunity to look through local records and determine whether the buyer is a prohibited purchaser.

This legislation will also provide a 72-hour waiting period for handgun purchases. By maintaining a brief ''cooling off'' period, we can help prevent crimes of passion and suicides. When you consider that 20 percent of funds used in murders are purchased in the week before the crime, this provision will help save lives.

Mr. President, these are sensible provisions that will help reduce gun violence in our nation. And make no mistake about it, there is much work to be done.

In the United States, firearm violence is currently the second leading cause of injury-related death, behind automobile-related fatalities. This violence is increasing at an alarming rate. By the year 2003, firearm fatalities are projected to become the United States leading cause of injury-related death.

Violence is taking a terrible toll on our children. Homicide is the third leading cause of death for youths 5 to 14 years old and the vast majority of these homicides were committed by firearms.

Mr. President, our nation can do better. We can and we must stop the gun violence on our street. The Brady Waiting Period Extension Act will help us toward that goal, and I urge my colleagues to support it.●

ADDITIONAL COSPONSORS

S. 358

At the request of Mr. DEWINE, the names of the Senator from Oklahoma (Mr. INHOFE), the Senator from Missouri (Mr. BOND), and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 358, a bill to provide for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products, and for other purposes.

S. 389

At the request of Mr. ABRAHAM, the name of the Senator from Alabama (Mr. SHELBY) was added as a cosponsor of S. 389, a bill to improve congressional deliberation on proposed Federal

private sector mandates, and for other purposes.

S. 474

At the request of Mr. KYL, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 474, a bill to amend sections 1081 and 1084 of title 18, United States Code.

S. 852

At the request of Mr. LOTT, the name of the Senator from Wyoming (Mr. THOMAS) was added as a cosponsor of S. 852, a bill to establish nationally uniform requirements regarding the titling and registration of salvage, nonrepairable, and rebuilt vehicles.

S. 1413

At the request of Mr. LUGAR, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1413, a bill to provide a framework for consideration by the legislative and executive branches of unilateral economic sanctions.

S. 1427

At the request of Mr. FORD, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 1427, a bill to amend the Communications Act of 1934 to require the Federal Communications Commission to preserve lowpower television stations that provide community broadcasting, and for other purposes.

S. 1890

At the request of Mr. DASCHLE, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 1890, a bill to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage.

S. 1891

At the request of Mr. DASCHLE, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 1891, a bill to amend the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage.

S. 1968

At the request of Mr. FORD, the name of the Senator from Nebraska (Mr. KERREY) was added as a cosponsor of S. 1968, a bill to amend title 49, United States Code, to authorize the Secretary of Transportation to implement a pilot program to improve access to the national transportation system for small communities, and for other purposes.

S. 2022

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 2022, a bill to provide for the improvement of interstate criminal justice identification, information, communications, and forensics.

S. 2145

At the request of Mr. SHELBY, the names of the Senator from Alabama (Mr. SESSIONS), the Senator from Arkansas (Mr. HUTCHINSON), and the Senator from Idaho (Mr. CRAIG) were added as cosponsors of S. 2145, a bill to modernize the requirements under the National Manufactured Housing Construction and Safety Standards Act of 1974 and to establish a balanced consensus process for the development, revision, and interpretation of Federal construction and safety standards for manufactured homes.

S. 2190

At the request of Mr. KENNEDY, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 2190, a bill to authorize qualified organizations to provide technical assistance and capacity building services to microenterprise development organizations and programs and to disadvantaged entrepreneurs using funds from the Community Development Financial Institutions Fund, and for other purposes.

S. 2220

At the request of Mr. JOHNSON, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 2220, a bill to provide the President with expedited Congressional consideration of line item vetoes of appropriations and targeted tax benefits.

S. 2222

At the request of Mr. GRASSLEY, the name of the Senator from Ohio (Mr. GLENN) was added as a cosponsor of S. 2222, a bill to amend title XVIII of the Social Security Act to repeal the financial limitation on rehabilitation services under part B of the Medicare Program.

S. 2295

At the request of Mr. MCCAIN, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 2295, a bill to amend the Older Americans Act of 1965 to extend the authorizations of appropriations for that Act, and for other purposes.

S. 2316

At the request of Mr. MCCONNELL, the name of the Senator from Ohio (Mr. GLENN) was added as a cosponsor of S. 2316, a bill to require the Secretary of Energy to submit to Congress a plan to ensure that all amounts accrued on the books of the United States Enrichment Corporation for the disposition of depleted uranium hexafluoride will be used to treat and recycle depleted uranium hexafluoride.

SENATE JOINT RESOLUTION 50

At the request of Mr. BOND, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of Senate Joint Resolution 50, a joint resolution to disapprove the rule submitted by the Health Care Financing Administration, Department of Health and Human Services on June 1, 1998, relating to surety bond requirements for home health agencies under the medicare and medicaid programs.

SENATE CONCURRENT RESOLUTION 105

At the request of Mr. D'AMATO, the names of the Senator from Connecticut (Mr. LIEBERMAN), the Senator from New Mexico (Mr. DOMENICI), the Senator from New York (Mr. MOYNIHAN), the Senator from Iowa (Mr. GRASSLEY), the Senator from North Carolina (Mr. HELMS), the Senator from Illinois (Ms. MOSELEY-BRAUN), the Senator from Michigan (Mr. ABRAHAM), the Senator from Maine (Ms. SNOWE), the Senator from Virginia (Mr. WARNER), the Senator from California (Mrs. FEINSTEIN), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Alaska (Mr. MURKOWSKI), the Senator from Maine (Ms. COLLINS), and the Senator from Oregon (Mr. SMITH) were added as cosponsors of Senate Concurrent Resolution 105, a concurrent resolution expressing the sense of the Congress regarding the culpability of Slobodan Milosevic for war crimes, crimes against humanity, and genocide in the former Yugoslavia, and for other purposes.

SENATE RESOLUTION 189

At the request of Mr. TORRICELLI, the names of the Senator from Colorado (Mr. CAMPBELL), the Senator from Georgia (Mr. CLELAND), the Senator from Nevada (Mr. BRYAN), the Senator from New Mexico (Mr. DOMENICI), the Senator from Hawaii (Mr. INOUYE), the Senator from Maryland (Mr. SARBANES), the Senator from Massachusetts (Mr. KERRY), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Oregon (Mr. SMITH), and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of Senate Resolution 189, a resolution honoring the 150th anniversary of the United States Women's Rights Movement that was initiated by the 1848 Women's Rights Convention held in Seneca Falls, New York, and calling for a national celebration of women's rights in 1998.

SENATE RESOLUTION 193

At the request of Mr. REID, the names of the Senator from New Mexico (Mr. DOMENICI), the Senator from Alaska (Mr. MURKOWSKI), the Senator from Oregon (Mr. SMITH), the Senator from New Hampshire (Mr. SMITH), the Senator from Indiana (Mr. COATS), the Senator from Wyoming (Mr. ENZI), the Senator from Nebraska (Mr. HAGEL), the Senator from Colorado (Mr. CAMPBELL), and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of Senate Resolution 193, a resolution designating December 13, 1998, as ''National Children's Memorial Day.''

AMENDMENTS SUBMITTED

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

GRASSLEY (AND OTHERS) AMENDMENT NO. 3172

Mr. GRASSLEY (for himself, Mr. ROBERTS, Mr. LUGAR, Mr. HAGEL, Mr. BROWNBACK, and Mr. BOND) proposed an amendment to the bill (S. 2159) making

appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 19999, and for other purposes; as follows:

On page 67, after line 23, add the following:

SEC. 7___. SENSE OF THE SENATE CONCERNING APPROPRIATE ACTIONS TO BE TAKEN TO ALLEVIATE THE ECONOMIC EFFECT OF LOW COMMODITY PRICES.

It is the sense of the Senate that—

(1) Congress should pass and the President should sign S. 1269, which would reauthorize fast-track trading authority for the President;

(2) Congress should pass and the President should sign S. 2078, the Farm and Ranch Risk Management Act, which would allow farmers and ranchers to better prepare for fluctuations in the agricultural economy;

(3) the House of Representatives should follow the Senate and provide full funding for the International Monetary Fund;

(4) Congress should pass and the President should sign sanctions reform legislation so that the agricultural economy of the United States is not harmed by sanctions on foreign trade;

(5) Congress should uphold the presidential waiver of the Jackson-Vanik amendment to the 1974 Trade Act providing normal trade relations status for China and continue to pursue normal trade relations with China;

(6) the House and Senate should continue to pursue a package of capital gains and estate tax reforms;

(7) the President should pursue stronger oversight on all international trade agreements affecting agriculture and commerce dispute settlement procedures when countries are found to be violating such trade agreements;

(8) the President should sign legislation providing full deductibility of health care insurance for self-employed individuals; and

(9) the Congress and the administration should pursue efforts to reduce regulations on farmers. The President should use the administrative tools available to him to use Commodity Credit Corporation and Unused Export Enhancement Program funds for humanitarian assistance.

CONRAD (AND OTHERS) AMENDMENT NO. 3173

Mr. CONRAD (for himself, Mr. DORGAN, Mr. CLELAND, Mr. CRAIG, Mr. DASCHLE, Mr. HARKIN, Mr. BAUCUS, Mr. HOLLINGS, Mr. WELLSTONE, Mr. BURNS, Mr. JOHNSON, and Mr. KERREY) proposed an amendment to the bill, S. 2159, supra; as follows:

On page 29, after line 21, add the following:

RESERVE INVENTORIES

For the reserve established under section 813 of the Agricultural Act of 1970 (7 U.S.C. 1427a), $500,000,000: *Provided,* That the entire amount shall be available only to the extent that the President submits to Congress an official budget request for a specific dollar amount that includes designation of the entire amount of the request as an emergency requirement for the purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900 et seq.): *Provided further,* That the entire amount of funds necessary to carry out this paragraph is designated by Congress as an emergency requirement under section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(A)).

On page 67, after line 23, add the following:

SEC. 7___. RESERVE INVENTORIES.

Section 813 of the Agricultural Act of 1970 (7 U.S.C. 1427a) is amended—

(1) in the first sentence of subsection (a), by inserting ''of agricultural producers'' after ''distress'';

(2) in subsection (c), by inserting ''the Secretary or'' after ''President or''; and

(3) in subsection (h)—

(A) by striking ''(h) There is hereby'' and inserting the following:

''(h) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are''; and

(B) by adding at the end the following:

''(2) USE OF FUNDS FOR CASH PAYMENTS.—The Secretary may use funds made available under this section to make, in a manner consistent with this section, cash payments that don't go for crop disasters, but for income loss to carry out the purposes of this section.''.

UNITED STATES PATENT AND TRADEMARK ORGINIZATION ACT OF 1998

LEAHY AMENDMENT NO. 3174

(Ordered to lie on the table.)

Mr. LEAHY submitted an amendment intended to be proposed by him to the bill (S. 507), to establish the United States Patent and Trademark Organization as a Government corporation, to amend the provisions of title 35, United States code, relating to procedures for patent appliations, commerical use of patents, reexamination reform, and for other purposes; as follows:

On page 106, line 1, strike all through line 6 on page 176 and insert the following:

TITLE I—UNITED STATES PATENT AND TRADEMARK ORGANIZATION

SEC. 101. SHORT TITLE.

This title may be cited as the ''United States Patent and Trademark Organization Act of 1998''.

Subtitle A—Establishment of the United States Patent and Trademark Organization

SEC. 111. ESTABLISHMENT OF THE UNITED STATES PATENT AND TRADEMARK ORGANIZATION AS A GOVERNMENT CORPORATION.

(a) ESTABLISHMENT.—The United States Patent and Trademark Organization is established as a wholly owned Government corporation subject to chapter 91 of title 31, separate from any department, and shall be an agency of the United States under the policy direction of the Secretary of Commerce.

(b) OFFICES.—The United States Patent and Trademark Organization shall maintain its principal office in the District of Columbia, or the metropolitan area thereof, for the service of process and papers and for the purpose of carrying out its powers, duties, and obligations under this title. The United States Patent and Trademark Organization shall be deemed, for purposes of venue in civil actions, to be a resident of the district in which its principal office is located except where jurisdiction is otherwise provided by law. The United States Patent and Trademark Organization may establish satellite offices in such places within the United States as it considers necessary and appropriate in the conduct of its business.

(c) REFERENCE.—For purposes of this title, a reference to the ''Organization'' shall be a reference to the United States Patent and Trademark Organization, unless the context provides otherwise.

SEC. 112. POWERS AND DUTIES.

(a) IN GENERAL.—The United States Patent and Trademark Organization, under the policy direction of the Secretary of Commerce, shall be responsible for—

(1) the examination of patents and the trademark applications;

(2) in support of the Under Secretary for Intellectual Property Policy, assisting with studies, programs, or exchanges of items or services regarding domestic and international patent and trademark law, the administration of the Organization, or any other function vested in the Organization by law, including programs to recognize, identify, assess, and forecast the technology of patented inventions and their utility to industry;

(3)(A) in support of the Under Secretary for Intellectual Property Policy, assisting with studies and programs cooperatively with foreign patent and trademark offices and international organizations, in connection with the granting and issuing of patents and the registration of trademarks; and

(B) with the concurrence of the Secretary of State, authorizing the transfer of not to exceed $100,000 in any year to the Department of State for the purpose of making special payments to international intergovernmental organizations for studies and programs for advancing international cooperation concerning patents, trademarks, and related matters; and

(4) disseminating to the public information with respect to patents and trademarks.

(b) SPECIAL PAYMENTS.—The special payments under subsection (a)(3)(B) may be in addition to any other payments or contributions to international organizations and shall not be subject to any limitations imposed by law on the amounts of such other payments or contributions by the United States Government.

(c) SPECIFIC POWERS.—The Organization—

(1) shall have perpetual succession;

(2) may indemnify the Director of the United States Patent and Trademark Organization, the Commissioner of Patents, the Commissioner of Trademarks, and other officers, attorneys, agents, and employees (including members of the Management Advisory Boards of the Patent Office and the Trademark Office) of the Organization for liabilities and expenses incurred within the scope of their employment;

(3) may adopt, amend, and repeal bylaws, rules, regulations, and determinations, which—

(A) shall govern the manner in which its business will be conducted and the powers granted to it by law will be exercised; and

(B) shall be made after notice and opportunity for full participation by interested public and private parties;

(4)(A) may acquire, construct, purchase, lease, hold, manage, operate, improve, alter, and renovate any real, personal, or mixed property, or any interest therein, as it considers necessary to carry out its functions; and

(B) sell, lease, grant, and dispose of such property as it considers necessary to effectuate the purposes of this Act;

(5)(A) may make such purchases, contracts for the construction, maintenance, or management and operation of facilities, and contracts for supplies or services, without regard to the provisions of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.), the Public Buildings Act (40 U.S.C. 601 et seq.), and the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 et seq.); and

(B) may enter into and perform such purchases and contracts for printing services,

including the process of composition, platemaking, presswork, silk screen processes, binding, microform, and the products of such processes, as it considers necessary to carry out the functions of the Organization, without regard to sections 501 through 517 and 1101 through 1123 of title 44, United States Code;

(6) may use, with their consent, services, equipment, personnel, and facilities of other departments, agencies, and instrumentalities of the Federal Government, on a reimbursable basis, and cooperate with such other departments, agencies, and instrumentalities in the establishment and use of services, equipment, and facilities of the Organization;

(7) may obtain from the Administrator of General Services such services as the Administrator is authorized to provide to other agencies of the United States, on the same basis as those services are provided to other agencies of the United States;

(8) may use, with the consent of the United States and the agency, government, or international organization concerned, the services, records, facilities, or personnel of any State or local government agency or instrumentality or foreign government or international organization to perform functions on its behalf;

(9) may retain and use all of its revenues and receipts, including revenues from the sale, lease, or disposal of any real, personal, or mixed property, or any interest therein, of the Organization, including for research and development and capital investment, subject to the provisions of section 10101 of the Omnibus Budget Reconciliation Act of 1990 (35 U.S.C. 41 note);

(10) shall have the priority of the United States with respect to the payment of debts from bankrupt, insolvent, and decedents' estates;

(11) may accept monetary gifts or donations of services, or of real, personal, intellectual, or mixed property, in order to enhance libraries and museums operated by the Organization, support the educational programs of the Organization, or otherwise carry out the functions of the Organization;

(12) may execute, in accordance with its bylaws, rules, and regulations, all instruments necessary and appropriate in the exercise of any of its powers; and

(13) may provide for liability insurance and insurance against any loss in connection with its property, other assets, or operations either by contract or by self-insurance.

(d) RESTRICTIONS ON GIFTS.—Any acceptance of a gift or donation under subsection (c)(14) shall be subject to section 201 of title 18, United States Code. The Director shall establish regulations for the acceptance of such gifts and donations including regulations prohibiting gifts or donations to the Organization by foreign entities.

(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to nullify, void, cancel, or interrupt any pending request-for-proposal let or contract issued by the General Services Administration for the specific purpose of relocating or leasing space to the United States Patent and Trademark Organization.

SEC. 113. ORGANIZATION AND MANAGEMENT.

(a) OFFICES.—The United States Patent and Trademark Organization shall consist of—

(1) the Office of the Director;

(2) the United States Patent Office; and

(3) the United States Trademark Office.

(b) DIRECTOR.—

(1) IN GENERAL.—The management of the United States Patent and Trademark Organization shall be vested in a Director of the United States Patent and Trademark Organization (hereafter in this title referred to as the ''Director'', unless the context provides otherwise), who shall be a citizen of the United States and who shall be appointed by the Secretary of Commerce to a 5-year term and compensated without regard to chapters 33, 51, and 53 of title 5, United States Code. The Secretary shall make the appointment on the basis of demonstrated ability in management and professional experience regarding patents or trademarks, and without regard to political affiliation or activity. The Secretary may reappoint the Director to subsequent terms so long as performance, as set forth in the annual performance agreement, is satisfactory or better.

(2) DUTIES.—(A) The Director shall—

(i) be responsible for the management and direction of the Organization and shall perform this duty in a fair, impartial, and equitable manner; and

(ii) strive to meet the goals set forth in the performance agreement described under paragraph (4); and

(iii) provide such advice to the Under Secretary for Intellectual Property Policy as the Director deems appropriate to assist the Under Secretary in carrying out the Under Secretary's responsibilities.

(B) The Director, in consultation with the Director of the Office of Personnel Management, shall maintain a program for identifying national security positions and providing for appropriate security clearances.

(C) The Director may perform such personnel, procurement, and other functions, with respect to the United States Patent Office and the United States Trademark Office, where a centralized administration of such functions would improve the efficiency of the Offices, by continuous unanimous agreement of the Director, the Commissioner of Patents, and the Commissioner of Trademarks. The agreement shall be in writing and shall indicate the allocation of costs among the Office of the Director, the United States Patent Office, and the United States Trademark Office.

(D) Except as otherwise provided in this title, the Director shall ensure that—

(i) the United States Patent Office and the United States Trademark Office, respectively, shall—

(I) prepare all appropriation requests under section 1108 of title 31, United States Code, for each office for submission by the Director;

(II) adjust fees to provide sufficient revenues to cover the expenses of such office; and

(III) expend funds derived from such fees for only the functions of such office; and

(ii) each such office is not involved in the management of any other office.

(E) The Director shall submit to Congress annually such information as is required under chapter 91 of title 31, United States Code, including—

(i) the total monies received and expended by the Organization;

(ii) the purpose for which the monies were spent;

(iii) the amount of any surplus revenues retained by the Organization;

(iv) the quality and quantity of the work of the Organization; and

(v) other information relating to the Organization.

(3) OATH.—The Director shall, before taking office, take an oath to discharge faithfully the duties of the Organization.

(4) COMPENSATION.—The Director shall be paid an annual rate of basic pay not to exceed the maximum rate of basic pay for the Senior Executive Service under section 5382 of title 5, United States Code, including any applicable locality based comparability payment that may be authorized under section 5304(h)(2) of such title. In addition, the Director may receive a bonus in an amount up to, but not in excess of, 50 percent of such annual rate of basic pay, based on the Secretary of Commerce's evaluation of the Director's performance in relation to the performance goals set forth in an annual performance agreement. Payment of a bonus under this paragraph may be made to the Director to the extent that such payment does not cause the Director's total aggregate compensation in a calendar year to equal or exceed the amount of the President's salary under section 102 of title 3, United States Code.

(5) REMOVAL.—The Director shall be removable by the Secretary of Commerce for misconduct or failure to meet performance goals set forth in the annual performance agreement.

(6) DESIGNEE OF DIRECTOR.—The Director shall designate an officer of the Organization who shall be vested with the authority to act in the capacity of the Director in the event of the absence or incapacity of the Director.

(c) OFFICERS AND EMPLOYEES OF THE ORGANIZATION.—

(1) COMMISSIONERS OF PATENTS AND TRADEMARKS.—The Secretary of Commerce shall appoint a Commissioner of Patents and a Commissioner of Trademarks under section 3 of title 35, United States Code and section 53 of the Act of July 5, 1946 (commonly referred to as the Trademark Act of 1946), respectively, as amended by this Act.

(2) OTHER OFFICERS AND EMPLOYEES.—The Director shall—

(A) appoint officers, employees (including attorneys), and agents of the Organization, who shall be citizens of the United States, as the Director considers necessary to carry out its functions;

(B) fix the compensation of such officers and employees, except as provided in subsection (e); and

(C) define the authority and duties of such officers and employees and delegate to them such of the powers vested in the Organization as the Director may determine.

(3) PERSONNEL LIMITATIONS.—The Organization shall not be subject to any administratively or statutorily imposed limitation on positions or personnel, and no positions or personnel of the Organization shall be taken into account for purposes of applying any such limitation.

(d) LIMITS ON COMPENSATION.—Except as otherwise provided by law, the annual rate of basic pay of an officer or employee of the Organization may not be fixed at a rate that exceeds, and total compensation payable to any such officer or employee for any year may not exceed, the annual rate of basic pay in effect for level II of the Executive Schedule under section 5313 of title 5, United States Code. The Director shall prescribe such regulations as may be necessary to carry out this subsection.

(e) INAPPLICABILITY OF TITLE 5, UNITED STATES CODE, GENERALLY.—Except as otherwise provided in this section, officers and employees of the Organization shall not be subject to the provisions of title 5, United States Code, relating to Federal employees.

(f) CONTINUED APPLICABILITY OF CERTAIN PROVISIONS OF TITLE 5, UNITED STATES CODE.—

(1) IN GENERAL.—The following provisions of title 5, United States Code, shall apply to the Organization and its officers and employees:

(A) Section 3110 (relating to employment of relatives; restrictions).

(B) Subchapter II of chapter 55 (relating to withholding pay).

(C) Subchapters II and III of chapter 73 (relating to employment limitations and political activities, respectively).

(D) Chapter 71 (relating to labor-management relations), subject to paragraph (2) and subsection (g).

(E) Section 3303 (relating to political recommendations).

(F) Subchapter II of chapter 61 (relating to flexible and compressed work schedules).

(G) Section 2302(b)(8) (relating to whistleblower protection) and whistleblower related provisions of chapter 12 (covering the role of the Office of Special Counsel).

(2) COMPENSATION SUBJECT TO COLLECTIVE BARGAINING.—

(A) IN GENERAL.—Notwithstanding any other provision of law, for purposes of applying chapter 71 of title 5, United States Code, pursuant to paragraph (1)(D), basic pay and other forms of compensation shall be considered to be among the matters as to which the duty to bargain in good faith extends under such chapter.

(B) EXCEPTIONS.—The duty to bargain in good faith shall not, by reason of subparagraph (A), be considered to extend to any benefit under title 5, United States Code, which is afforded by paragraph (1), (2), (3), or (4) of subsection (g).

(C) LIMITATIONS APPLY.—Nothing in this subsection shall be considered to allow any limitation under subsection (d) to be exceeded.

(g) PROVISIONS OF TITLE 5, UNITED STATES CODE, THAT CONTINUE TO APPLY, SUBJECT TO CERTAIN REQUIREMENTS.—

(1) RETIREMENT.—(A) The provisions of subchapter III of chapter 83 and chapter 84 of title 5, United States Code, shall apply to the Organization and its officers and employees, subject to subparagraph (B).

(B)(i) The amount required of the Organization under the second sentence of section 8334(a)(1) of title 5, United States Code, with respect to any particular individual shall, instead of the amount which would otherwise apply, be equal to the normal-cost percentage (determined with respect to officers and employees of the Organization using dynamic assumptions, as defined by section 8401(9) of such title) of the individual's basic pay, minus the amount required to be withheld from such pay under such section 8334(a)(1).

(ii) The amount required of the Organization under section 8334(k)(1)(B) of title 5, United States Code, with respect to any particular individual shall be equal to an amount computed in a manner similar to that specified in clause (i), as determined in accordance with clause (iii).

(iii) Any regulations necessary to carry out this subparagraph shall be prescribed by the Office of Personnel Management.

(C) The United States Patent and Trademark Organization may supplement the benefits provided under the preceding provisions of this paragraph.

(2) HEALTH BENEFITS.—(A) The provisions of chapter 89 of title 5, United States Code, shall apply to the Organization and its officers and employees, subject to subparagraph (B).

(B)(i) With respect to any individual who becomes an officer or employee of the Organization pursuant to subsection (i), the eligibility of such individual to participate in such program as an annuitant (or of any other person to participate in such program as an annuitant based on the death of such individual) shall be determined disregarding the requirements of section 8905(b) of title 5, United States Code. The preceding sentence shall not apply if the individual ceases to be an officer or employee of the Organization for any period of time after becoming an officer or employee of the Organization pursuant to subsection (i) and before separation.

(ii) The Government contributions authorized by section 8906 of title 5, United States Code, for health benefits for anyone participating in the health benefits program pursuant to this subparagraph shall be made by the Organization in the same manner as provided under section 8906(g)(2) of such title with respect to the United States Postal Service for individuals associated therewith.

(iii) For purposes of this subparagraph, the term ''annuitant'' has the meaning given such term by section 8901(3) of title 5, United States Code.

(C) The Organization may supplement the benefits provided under the preceding provisions of this paragraph.

(3) LIFE INSURANCE.—(A) The provisions of chapter 87 of title 5, United States Code, shall apply to the Organization and its officers and employees, subject to subparagraph (B).

(B)(i) Eligibility for life insurance coverage after retirement or while in receipt of compensation under subchapter I of chapter 81 of title 5, United States Code, shall be determined, in the case of any individual who becomes an officer or employee of the Organization pursuant to subsection (i), without regard to the requirements of section 8706(b)(1) or (2) of such title, but subject to the condition specified in the last sentence of paragraph (2)(B)(i) of this subsection.

(ii) Government contributions under section 8708(d) of such title on behalf of any such individual shall be made by the Organization in the same manner as provided under paragraph (3) thereof with respect to the United States Postal Service for individuals associated therewith.

(C) The Organization may supplement the benefits provided under the preceding provisions of this paragraph.

(4) EMPLOYEES' COMPENSATION FUND.—(A) Officers and employees of the Organization shall not become ineligible to participate in the program under chapter 81 of title 5, United States Code, relating to compensation for work injuries, by reason of subsection (e).

(B) The Organization shall remain responsible for reimbursing the Employees' Compensation Fund, pursuant to section 8147 of title 5, United States Code, for compensation paid or payable after the effective date of this title in accordance with chapter 81 of title 5, United States Code, with regard to any injury, disability, or death due to events arising before such date, whether or not a claim has been filed or is final on such date.

(h) LABOR-MANAGEMENT RELATIONS.—

(1) LABOR RELATIONS AND EMPLOYEE RELATIONS PROGRAMS.—The Organization shall develop hiring practices, labor relations and employee relations programs with the objective of improving productivity and efficiency, incorporating the following principles:

(A) Such programs shall be consistent with the merit principles in section 2301(b) of title 5, United States Code.

(B) Such programs shall provide veterans preference protections equivalent to those established by sections 2108, 3308 through 3318, 3320, 3502, and 3504 of title 5, United States Code.

(C)(i) The right to work shall not be subject to undue restraint or coercion. The right to work shall not be infringed or restricted in any way based on membership in, affiliation with, or financial support of a labor organization.

(ii) No person shall be required, as a condition of employment or continuation of employment—

(I) to resign or refrain from voluntary membership in, voluntary affiliation with, or voluntary financial support of a labor organization;

(II) to become or remain a member of a labor organization;

(III) to pay any dues, fees, assessments, or other charges of any kind or amount to a labor organization;

(IV) to pay to any charity or other third party, in lieu of such payments, any amount equivalent to or a pro rata portion of dues, fees, assessments, or other charges regularly required of members of a labor organization; or

(V) to be recommended, approved, referred, or cleared by or through a labor organization.

(iii) This subparagraph shall not apply to a person described in section 7103(a)(2)(v) of title 5, United States Code, or a ''supervisor'', ''management official'', or ''confidential employee'' as those terms are defined in 7103(a) (10), (11), and (13) of such title.

(iv) Any labor organization recognized by the Organization as the exclusive representative of a unit of employees of the Organization shall represent the interests of all employees in that unit without discrimination and without regard to labor organization membership.

(2) ADOPTION OF EXISTING LABOR AGREEMENTS.—The Organization shall adopt all labor agreements which are in effect, as of the day before the effective date of this title, with respect to such Organization (as then in effect).

(i) CARRYOVER OF PERSONNEL.—

(1) FROM PTO.—Effective as of the effective date of this title, all officers and employees of the Patent and Trademark Office on the day before such effective date shall become officers and employees of the Organization, without a break in service.

(2) OTHER PERSONNEL.—(A) Any individual who, on the day before the effective date of this title, is an officer or employee of the Department of Commerce (other than an officer or employee under paragraph (1)) shall be transferred to the Organization if—

(i) such individual serves in a position for which a major function is the performance of work reimbursed by the Patent and Trademark Office, as determined by the Secretary of Commerce;

(ii) such individual serves in a position that performed work in support of the Patent and Trademark Office during at least half of the incumbent's work time, as determined by the Secretary of Commerce; or

(iii) such transfer would be in the interest of the Organization, as determined by the Secretary of Commerce in consultation with the Director.

(B) Any transfer under this paragraph shall be effective as of the same effective date as referred to in paragraph (1), and shall be made without a break in service.

(3) ACCUMULATED LEAVE.—The amount of sick and annual leave and compensatory time accumulated under title 5, United States Code, before the effective date described in paragraph (1), by any individual who becomes an officer or employee of the Organization under this subsection, are obligations of the Organization.

(4) TERMINATION RIGHTS.—Any employee referred to in paragraph (1) or (2) of this subsection whose employment with the Organization is terminated during the 1-year period beginning on the effective date of this title shall be entitled to rights and benefits, to be afforded by the Organization, similar to those such employee would have had under Federal law if termination had occurred immediately before such date. An employee who would have been entitled to appeal any such termination to the Merit Systems Protection Board, if such termination had occurred immediately before such effective date, may appeal any such termination occurring within such 1-year period to the Board under such procedures as it may prescribe.

(5) TRANSITION PROVISIONS.—(A)(i) On or after the effective date of this title, the President shall appoint a Director of the United States Patent and Trademark Organization who shall serve until the earlier of—

(I) the date on which a Director qualifies under subsection (b); or

(II) the date occurring 1 year after the effective date of this title.

(ii) The President shall not make more than 1 appointment under this subparagraph.

(B) The individual serving as the Assistant Commissioner of Patents on the day before the effective date of this title shall serve as the Commissioner of Patents until the date on which a Commissioner of Patents is appointed under section 3 of title 35, United States Code, as amended by this Act.

(C) The individual serving as the Assistant Commissioner of Trademarks on the day before the effective date of this title shall serve as the Commissioner of Trademarks until the date on which a Commissioner of Trademarks is appointed under section 53 of the Act of July 5, 1946 (commonly referred to as the Trademark Act of 1946), as amended by this Act.

(j) COMPETITIVE STATUS.—For purposes of appointment to a position in the competitive service for which an officer or employee of the Organization is qualified, such officer or employee shall not forfeit any competitive status, acquired by such officer or employee before the effective date of this title, by reason of becoming an officer or employee of the Organization under subsection (i).

(k) SAVINGS PROVISIONS.—Compensation, benefits, and other terms and conditions of employment in effect immediately before the effective date of this title, whether provided by statute or by rules and regulations of the former Patent and Trademark Office or the executive branch of the Government of the United States, shall continue to apply to officers and employees of the Organization, until changed in accordance with this section (whether by action of the Director or otherwise).

(l) REMOVAL OF QUASI-JUDICIAL EXAMINERS.—The Organization may remove a patent examiner or administrative patent judge, or a trademark examiner or an administrative trademark judge only for such cause as will promote the efficiency of the Organization.

SEC. 114. UNITED STATES PATENT OFFICE.

(a) ESTABLISHMENT OF THE PATENT OFFICE AS A SEPARATE ADMINISTRATIVE UNIT.—Section 1 of title 35, United States Code, is amended to read as follows:

"§ 1. Establishment

''(a) ESTABLISHMENT.—The United States Patent Office is established as a separate administrative unit of the United States Patent and Trademark Organization, where records, books, drawings, specifications, and other papers and things pertaining to patents shall be kept and preserved, except as otherwise provided by law.

''(b) REFERENCE.—For purposes of this title, the United States Patent Office shall also be referred to as the 'Office' and the 'Patent Office'.''.

(b) POWERS AND DUTIES.—Section 2 of title 35, United States Code, is amended to read as follows:

"§ 2. Powers and duties

''The United States Patent Office, under the policy direction of the Secretary of Commerce through the Director of the United States Patent and Trademark Organization, shall be responsible for—

''(1) examination of patent applications;

''(2) in support of the Secretary of Commerce and Under Secretary for Intellectual Property Policy, assisting with studies, programs, or exchanges of items or services regarding domestic and international patent law, the administration of the Office, or any other function vested in the Office by law, including programs to recognize, identify, assess, and forecast the technology of patented inventions and their utility to industry;

''(3) in support of the Secretary of Commerce and Under Secretary for Intellectual Property Policy, assisting with studies and programs cooperatively with foreign patent offices and international organizations, in connection with the granting and issuing of patents; and

''(4) disseminating to the public information with respect to patents.''.

(c) ORGANIZATION AND MANAGEMENT.—Section 3 of title 35, United States Code, is amended to read as follows:

"§ 3. Officers and employees

''(a) COMMISSIONER.—

''(1) IN GENERAL.—The management of the United States Patent Office shall be vested in a Commissioner of Patents, who shall be a citizen of the United States and who shall be appointed by the Secretary of Commerce and shall serve at the pleasure of the Secretary of Commerce. The Commissioner of Patents shall be a person who, by reason of professional background and experience in patent law, is especially qualified to manage the Office.

''(2) DUTIES.—

''(A) IN GENERAL.—The Commissioner shall be responsible for all aspects of the management, administration, and operation of the Office, and shall perform these duties in a fair, impartial, and equitable manner.

''(B) ADVISING THE DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK ORGANIZATION.—The Commissioner of Patents shall advise the Director of the United States Patent and Trademark Organization of all activities of the Office undertaken in response to obligations of the United States under treaties and executive agreements, or which relate to cooperative programs with those authorities of foreign governments that are responsible for granting patents. The Commissioner of Patents shall advise the Director of the United States Patent and Trademark Organization on matters of patent law and shall recommend to the Director of the United States Patent and Trademark Organization changes in law or policy which may improve the ability of United States citizens to secure and enforce patent rights in the United States or in foreign countries.

''(C) REGULATIONS.—The Commissioner may establish regulations, not inconsistent with law, for the conduct of proceedings in the Patent Office. The Director of the United States Patent and Trademark Organization shall determine whether such regulations are consistent with the policy direction of the Secretary of Commerce.

''(D) CONSULTATION WITH THE MANAGEMENT ADVISORY BOARD.—(i) The Commissioner shall consult with the Management Advisory Board established in section 5—

''(I) on a regular basis on matters relating to the operation of the Office; and

''(II) before submitting budgetary proposals to the Director of the United States Patent and Trademark Organization for submission to the Office of Management and Budget or changing or proposing to change patent user fees or patent regulations.

''(ii) The Director of the United States Patent and Trademark Organization shall determine whether such fees or regulations are consistent with the policy direction of the Secretary of Commerce.

''(3) OATH.—The Commissioner shall, before taking office, take an oath to discharge faithfully the duties of the Office.

''(4) COMPENSATION.—

''(A) IN GENERAL.—The Commissioner shall receive compensation at the rate of pay in effect for level IV of the Executive Schedule under section 5315 of title 5.

''(B) BONUS.—In addition to compensation under subparagraph (A), the Commissioner may, at the discretion of the Director of the United States Patent and Trademark Organization, receive as a bonus, an amount which would raise total compensation to the equivalent of the rate of pay in effect for level III of the Executive Schedule under section 5314 of title 5.

''(b) OFFICERS AND EMPLOYEES.—

''(1) DEPUTY COMMISSIONER OF PATENTS.—The Commissioner shall appoint a Deputy Commissioner of Patents who shall be vested with the authority to act in the capacity of the Commissioner in the event of the absence or incapacity of the Commissioner. In the event of a vacancy in the office of Commissioner, the Deputy Commissioner shall fill the office of Commissioner until a new Commissioner is appointed and takes office.

''(2) OMBUDSMAN.—The Commissioner shall appoint an ombudsman to advise the Commissioner on the concerns of independent inventors, nonprofit organizations, and small business concerns.

''(3) OTHER OFFICERS AND EMPLOYEES.—Other officers, attorneys, employees, and agents shall be selected and appointed by the Commissioner, and shall be vested with such powers and duties as the Commissioner may determine.''.

(d) MANAGEMENT ADVISORY BOARD.—Chapter 1 of part I of title 35, United States Code, is amended by inserting after section 4 the following:

"§ 5. Patent Office Management Advisory Board

''(a) ESTABLISHMENT OF MANAGEMENT ADVISORY BOARD.—

''(1) APPOINTMENT.—The United States Patent Office shall have a Management Advisory Board (hereafter in this title referred to as the 'Advisory Board') of 5 members, who shall be appointed by the President and shall serve at the pleasure of the President. Not more than 3 of the 5 members shall be members of the same political party. At least 1 member shall be an independent inventor, as defined in regulations issued by the Commissioner.

''(2) CHAIR.—The President shall designate a Chair of the Advisory Board, whose term as chair shall be for 3 years.

''(3) TIMING OF APPOINTMENTS.—Initial appointments to the Advisory Board shall be made within 3 months after the effective date of the United States Patent and Trademark Organization Act of 1998. Vacancies shall be filled in the manner in which the original appointment was made under this subsection within 3 months after they occur.

''(b) BASIS FOR APPOINTMENTS.—Members of the Advisory Board shall be citizens of the United States who shall be chosen so as to represent the interests of diverse users of the United States Patent Office, and shall include individuals with substantial background and achievement in corporate finance and management.

''(c) MEETINGS.—The Advisory Board shall meet at the call of the Chair to consider an agenda set by the Chair.

''(d) DUTIES.—The Advisory Board shall—

''(1) review the policies, goals, performance, budget, and user fees of the United States Patent Office, and advise the Commissioner on these matters;

''(2) within 60 days after the end of each fiscal year—

''(A) prepare an annual report on the matters referred to in paragraph (1);

''(B) transmit the report to the Director of the United States Patent and Trademark Organization, the President, and the Committees on the Judiciary of the Senate and the House of Representatives; and

''(C) publish the report in the Patent Office Official Gazette.

''(e) COMPENSATION.—Each member of the Advisory Board shall be compensated for each day (including travel time) during which such member is attending meetings or conferences of the Advisory Board or otherwise engaged in the business of the Advisory Board, at the rate which is the daily equivalent of the annual rate of basic pay in effect for level III of the Executive Schedule under section 5314 of title 5, and while away from such member's home or regular place of business such member may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5.

''(f) ACCESS TO INFORMATION.—Members of the Advisory Board shall be provided access to records and information in the United States Patent Office, except for personnel or other privileged information and information concerning patent applications required to be kept in confidence by section 122.

''(g) APPLICABILITY OF CERTAIN ETHICS LAWS.—Members of the Advisory Board shall be special Government employees within the meaning of section 202 of title 18.''.

(e) CONFORMING AMENDMENTS.—Section 6 of title 35, United States Code, and the item relating to such section in the table of contents for chapter 1 of title 35, United States Code, are repealed.

(f) BOARD OF PATENT APPEALS AND INTERFERENCES.—Section 7 of title 35, United States Code, is amended to read as follows:

''§ 7. Board of Patent Appeals and Interferences

''(a) ESTABLISHMENT AND COMPOSITION.—There shall be in the United States Patent Office a Board of Patent Appeals and Interferences. The Commissioner, the Deputy Commissioner, and the administrative patent judges shall constitute the Board. The administrative patent judges shall be persons of competent legal knowledge and scientific ability.

''(b) DUTIES.—

''(1) IN GENERAL.—The Board of Patent Appeals and Interferences shall, on written appeal of an applicant, a patent owner, or a third-party requester in a reexamination proceeding—

''(A) review adverse decisions of examiners—

''(i) upon applications for patents; and

''(ii) in reexamination proceedings; and

''(B) determine priority and patentability of invention in interferences declared under section 135(a).

''(2) HEARINGS.—Each appeal and interference shall be heard by at least 3 members of the Board, who shall be designated by the Commissioner. Only the Board of Patent Appeals and Interferences may grant rehearings.''.

(g) ANNUAL REPORT OF COMMISSIONER.—Section 14 of title 35, United States Code, is amended to read as follows:

''§ 14. Annual report to Congress

''The Commissioner shall report to the Director of the United States Patent and Trademark Organization such information as the Director is required to submit to Congress annually under section 157(d) of this title, and under chapter 91 of title 31, including—

''(1) the total of the moneys received and expended by the Office;

''(2) the purposes for which the moneys were spent;

''(3) the quality and quantity of the work of the Office; and

''(4) other information relating to the Office.''.

(h) PRACTICE BEFORE PATENT OFFICE.—

(1) IN GENERAL.—Section 31 of title 35, United States Code, is amended to read as follows:

''§ 31. Regulations for agents and attorneys

''The Commissioner may prescribe regulations governing the recognition and conduct of agents, attorneys, or other persons representing applicants or other parties before the Office. The regulations may require such persons, before being recognized as representatives of applicants or other persons, to show that they are of good moral character and reputation and are possessed of the necessary qualifications to render to applicants or other persons valuable service, advice, and assistance in the presentation or prosecution of their applications or other business before the Office.''.

(2) DESIGNATION OF ATTORNEY TO CONDUCT HEARING.—Section 32 of title 35, United States Code, is amended in the first sentence by striking ''Patent and Trademark Office'' and inserting ''Patent Office'' and by inserting before the last sentence the following: ''The Commissioner shall have the discretion to designate any attorney who is an officer or employee of the United States Patent Office to conduct the hearing required by this section.''.

(i) FUNDING.—

(1) ADJUSTMENT OF FEES.—Section 41(f) of title 35, United States Code, is amended to read as follows:

''(f) The Commissioner, after consulting with the Patent Office Management Advisory Board pursuant to section 3(a)(2)(C) of this title and after notice and opportunity for full participation by interested public and private parties, may, by regulation, adjust the fees established in this section. The Director of the United States Patent and Trademark Organization shall determine whether such fees are consistent with the policy direction of the Secretary of Commerce.''.

(2) PATENT OFFICE FUNDING.—Section 42 of title 35, United States Code, is amended to read as follows:

''§ 42. Patent Office funding

''(a) FEES PAYABLE TO THE OFFICE.—All fees for services performed by or materials furnished by the United States Patent Office shall be payable to the Office.

''(b) USE OF MONEYS.—Moneys from fees shall be available to the United States Patent Office to carry out, to the extent provided in appropriations Acts, the functions of the Office. Moneys of the Office not otherwise used to carry out the functions of the Office shall be kept in cash on hand or on deposit, or invested in obligations of the United States or guaranteed by the United States, or in obligations or other instruments which are lawful investments for fiduciary, trust, or public funds. Fees available to the Commissioner under this title shall be used only for the processing of patent applications and for other services and materials relating to patents, including the agreed upon share of any centralized function, as set forth in section 113(b)(2)(E) of the United States Patent and Trademark Organization Act of 1998.

''(c) CONTRIBUTION TO THE OFFICE OF THE DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK ORGANIZATION.—The Patent Office shall contribute 50 percent of the annual budget of the Office of the Director of the United States Patent and Trademark Organization.''.

SEC. 115. UNITED STATES TRADEMARK OFFICE.

(a) ESTABLISHMENT OF THE UNITED STATES TRADEMARK OFFICE AS A SEPARATE ADMINISTRATIVE UNIT.—The Act of July 5, 1946 (commonly referred to as the Trademark Act of 1946) is amended—

(1) by redesignating titles X and XI as titles XI and XII, respectively;

(2) by redesignating sections 45, 46, 47, 48, 49, 50, and 51 as sections 61, 71, 72, 73, 74, 75, and 76, respectively; and

(3) by inserting after title IX the following new title:

''TITLE X—UNITED STATES TRADEMARK OFFICE

''SEC. 51. ESTABLISHMENT.

''(a) ESTABLISHMENT.—The United States Trademark Office is established as a separate administrative unit of the United States Patent and Trademark Organization.

''(b) REFERENCE.—For purposes of this chapter, the United States Trademark Office shall also be referred to as the 'Office' and the 'Trademark Office'.

''SEC. 52. POWERS AND DUTIES.

''The United States Trademark Office, under the policy direction of the Secretary of Commerce through the Director of the United States Patent and Trademark Organization, shall be responsible for—

''(1) the examination of trademark applications;

''(2) in support of the Secretary of Commerce and the Under Secretary for Intellectual Property Policy, assisting with studies, programs, or exchanges of items or services regarding domestic and international trademark law or the administration of the Office;

''(3) in support of the Secretary of Commerce and the Under Secretary for Intellectual Property Policy, assisting with studies and programs cooperatively with foreign trademark offices and international organizations, in connection with the registration of trademarks; and

''(4) disseminating to the public information with respect to trademarks.

''SEC. 53. OFFICERS AND EMPLOYEES.

''(a) COMMISSIONER.—

''(1) IN GENERAL.—The management of the United States Trademark Office shall be vested in a Commissioner of Trademarks, who shall be a citizen of the United States and who shall be appointed by the Secretary of Commerce and shall serve at the pleasure of the Secretary of Commerce. The Commissioner of Trademarks shall be a person who, by reason of professional background and experience in trademark law, is especially qualified to manage the Office.

''(2) DUTIES.—

''(A) IN GENERAL.—The Commissioner shall be responsible for all aspects of the management, administration, and operation of the Office, and shall perform these duties in a fair, impartial, and equitable manner.

''(B) ADVISING THE DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK ORGANIZATION.—The Commissioner of Trademarks shall advise the Director of the United States Patent and Trademark Organization of all activities of the Office undertaken in response to obligations of the United States under treaties and executive agreements, or which relate to cooperative programs with those authorities of foreign governments that are responsible for registering trademarks. The Commissioner of Trademarks shall advise the Director of the United States Patent and Trademark Organization on matters of trademark law and shall recommend to the Director of the United States Patent and Trademark Organization changes in law or policy which may improve the ability of United States citizens to secure and enforce trademark rights in the United States or in foreign countries.

''(C) REGULATIONS.—The Commissioner may establish regulations, not inconsistent with law, for the conduct of proceedings in

the Trademark Office. The Director of the United States Patent and Trademark Organization shall determine whether such regulations are consistent with the policy direction of the Secretary of Commerce.

''(D) CONSULTATION WITH THE MANAGEMENT ADVISORY BOARD.—(i) The Commissioner shall consult with the Trademark Office Management Advisory Board established under section 54—

''(I) on a regular basis on matters relating to the operation of the Office; and

''(II) before submitting budgetary proposals to the Director of the United States Patent and Trademark Organization for submission to the Office of Management and Budget or changing or proposing to change trademark user fees or trademark regulations.

''(ii) The Director of the United States Patent and Trademark Organization shall determine whether such fees or regulations are consistent with the policy direction of the Secretary of Commerce.

''(E) PUBLICATIONS.—(i) The Commissioner may print, or cause to be printed, the following:

''(I) Certificates of trademark registrations, including statements and drawings, together with copies of the same.

''(II) The Official Gazette of the United States Trademark Office.

''(III) Annual indexes of trademarks and registrants.

''(IV) Annual volumes of decisions in trademark cases.

''(V) Pamphlet copies of laws and rules relating to trademarks and circulars or other publications relating to the business of the Office.

''(ii) The Commissioner may exchange any of the publications specified under clause (i) for publications desirable for the use of the Trademark Office.

''(3) OATH.—The Commissioner shall, before taking office, take an oath to discharge faithfully the duties of the Office.

''(4) COMPENSATION.—

''(A) IN GENERAL.—The Commissioner shall receive compensation at the rate of pay in effect for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

''(B) BONUS.—In addition to compensation under subparagraph (A), the Commissioner may, at the discretion of the Director of the United States Patent and Trademark Organization, receive as a bonus, an amount which would raise total compensation to the equivalent of the rate of pay in effect for level III of the Executive Schedule under section 5314 of title 5.

''(b) OFFICERS AND EMPLOYEES.—The Commissioner shall appoint a Deputy Commissioner of Trademarks who shall be vested with the authority to act in the capacity of the Commissioner in the event of the absence or incapacity of the Commissioner. In the event of a vacancy in the office of Commissioner, the Deputy Commissioner shall fill the office of Commissioner until a new Commissioner is appointed and takes office. Other officers, attorneys, employees, and agents shall be selected and appointed by the Commissioner, and shall be vested with such powers and duties as the Commissioner may determine.

''SEC. 54. TRADEMARK OFFICE MANAGEMENT ADVISORY BOARD.

''(a) ESTABLISHMENT OF MANAGEMENT ADVISORY BOARD.—

''(1) APPOINTMENT.—The United States Trademark Office shall have a Management Advisory Board (hereafter in this title referred to as the 'Advisory Board') of 5 members, who shall be appointed by the President and shall serve at the pleasure of the President. Not more than 3 of the 5 members shall be members of the same political party.

''(2) CHAIR.—The President shall designate a Chair of the Advisory Board, whose term as chair shall be for 3 years.

''(3) TIMING OF APPOINTMENTS.—Initial appointments to the Advisory Board shall be made within 3 months after the effective date of the United States Patent and Trademark Organization Act of 1998. Vacancies shall be filled in the manner in which the original appointment was made under this section within 3 months after they occur.

''(b) BASIS FOR APPOINTMENTS.—Members of the Advisory Board shall be citizens of the United States who shall be chosen so as to represent the interests of diverse users of the United States Trademark Office, and shall include individuals with substantial background and achievement in corporate finance and management.

''(c) MEETINGS.—The Advisory Board shall meet at the call of the Chair to consider an agenda set by the Chair.

''(d) DUTIES.—The Advisory Board shall—

''(1) review the policies, goals, performance, budget, and user fees of the United States Trademark Office, and advise the Commissioner on these matters; and

''(2) within 60 days after the end of each fiscal year—

''(A) prepare an annual report on the matters referred to under paragraph (1);

''(B) transmit the report to the Director of the United States Patent and Trademark Organization, the President, and the Committees on the Judiciary of the Senate and the House of Representatives; and

''(C) publish the report in the Trademark Office Official Gazette.

''(e) COMPENSATION.—Each member of the Advisory Board shall be compensated for each day (including travel time) during which such member is attending meetings or conferences of the Advisory Board or otherwise engaged in the business of the Advisory Board, at the rate which is the daily equivalent of the annual rate of basic pay in effect for level III of the Executive Schedule under section 5314 of title 5, United States Code, and while away from such member's home or regular place of business such member may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.

''(f) ACCESS TO INFORMATION.—Members of the Advisory Board shall be provided access to records and information in the United States Trademark Office, except for personnel or other privileged information.

''(g) APPLICABILITY OF CERTAIN ETHIC LAWS.—Members of the Advisory Board shall be special Government employees within the meaning of section 202 of title 18.

''SEC. 55. ANNUAL REPORT TO CONGRESS.

''The Commissioner shall report to the Director of the United States Patent and Trademark Organization such information as the Director is required to report to Congress annually under chapter 91 of title 31, including—

''(1) the moneys received and expended by the Office;

''(2) the purposes for which the moneys were spent;

''(3) the quality and quantity of the work of the Office; and

''(4) other information relating to the Office.

''SEC. 56. TRADEMARK OFFICE FUNDING.

''(a) FEES PAYABLE TO THE OFFICE.—All fees for services performed by or materials furnished by the United States Trademark Office shall be payable to the Office.

''(b) USE OF MONEYS.—Moneys from fees shall be available to the United States Trademark Office to carry out, to the extent provided in appropriations Acts, the functions of the Office. Moneys of the Office not otherwise used to carry out the functions of the Office shall be kept in cash on hand or on deposit, or invested in obligations of the United States or guaranteed by the United States, or in obligations or other instruments which are lawful investments for fiduciary, trust, or public funds. Fees available to the Commissioner under this chapter shall be used only for the registration of trademarks and for other services and materials relating to trademarks, including the agreed upon share of any centralized function, as set forth in section 113(b)(2)(E) of the United States Patent and Trademark Organization Act of 1998.

''(c) CONTRIBUTION TO THE OFFICE OF THE DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK ORGANIZATION.—The Trademark Office shall contribute 50 percent of the annual budget of the Office of the Director of the United States Patent and Trademark Organization.''.

(b) TRADEMARK TRIAL AND APPEAL BOARD.—Section 17 of the Act of July 5, 1946 (commonly referred to as the Trademark Act of 1946) (15 U.S.C. 1067) is amended to read as follows:

''SEC. 17. (a) In every case of interference, opposition to registration, application to register as a lawful concurrent user, or application to cancel the registration of a mark, the Commissioner shall give notice to all parties and shall direct a Trademark Trial and Appeal Board to determine and decide the respective rights of registration.

''(b) The Trademark Trial and Appeal Board shall include the Commissioner of Trademarks, the Deputy Commissioner of Trademarks, and administrative trademark judges competent in trademark law who are appointed by the Commissioner. Each case shall be heard by at least 3 members of the Board, the members hearing such case to be designated by the Commissioner.''.

(c) DETERMINATION OF FEES.—Section 31(a) of the Act of July 5, 1946 (commonly referred to as the Trademark Act of 1946) (15 U.S.C. 1113(a)) is amended by striking the second and third sentences and inserting the following: ''Fees established under this subsection may be adjusted by the Commissioner, after consulting with the Trademark Office Management Advisory Board in accordance with section 53(a)(2)(C) of this Act and after notice and opportunity for full participation by interested public and private parties. The Director of the United States Patent and Trademark Organization shall determine whether such fees are consistent with the policy direction of the Secretary of Commerce.''.

SEC. 116. SUITS BY AND AGAINST THE ORGANIZATION.

(a) ACTIONS UNDER UNITED STATES LAW.—Any civil action or proceeding to which the United States Patent and Trademark Organization is a party is deemed to arise under the laws of the United States. The Federal courts shall have exclusive jurisdiction over all civil actions by or against the Organization.

(b) REPRESENTATION BY THE DEPARTMENT OF JUSTICE.—The United States Patent and Trademark Organization shall be deemed an agency of the United States for purposes of section 516 of title 28, United States Code.

(c) PROHIBITION ON ATTACHMENT, LIENS, OR SIMILAR PROCESS.—No attachment, garnishment, lien, or similar process, intermediate or final, in law or equity, may be issued against property of the Organization.

SEC. 117. FUNDING.

(a) IN GENERAL.—The activities of the United States Patent and Trademark Organization and each office of the Organization shall be funded entirely through fees payable to the United States Patent Office (under

section 42 of title 35, United States Code) and the United States Trademark Office (under section 56 of the Act of July 5, 1946 (commonly known as the Trademark Act of 1946)), and surcharges appropriated by Congress, to the extent provided in appropriations Acts and subject to the provisions of subsection (b).

(b) BORROWING AUTHORITY.—

(1) IN GENERAL.—The United States Patent and Trademark Organization is authorized to issue from time to time for purchase by the Secretary of the Treasury its debentures, bonds, notes, and other evidences of indebtedness (hereafter in this subsection referred to as ''obligations'') to assist in financing the activities of the United States Patent Office and the United States Trademark Office. Borrowing under this section shall be subject to prior approval in appropriations Acts. Such borrowing shall not exceed amounts approved in appropriations Acts.

(2) BORROWING AUTHORITY.—Any borrowing under this subsection shall be repaid only from fees paid to the Office for which such obligations were issued and surcharges appropriated by Congress. Such obligations shall be redeemable at the option of the United States Patent and Trademark Organization before maturity in the manner stipulated in such obligations and shall have such maturity as is determined by the United States Patent and Trademark Organization with the approval of the Secretary of the Treasury. Each such obligation issued to the Treasury shall bear interest at a rate not less than the current yield on outstanding marketable obligations of the United States of comparable maturity during the month preceding the issuance of the obligation as determined by the Secretary of the Treasury.

(3) PURCHASE OF OBLIGATIONS.—The Secretary of the Treasury shall purchase any obligations of the United States Patent and Trademark Organization issued under this subsection and for such purpose the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under that chapter are extended to include such purpose.

(4) TREATMENT.—Payment under this subsection of the purchase price of such obligations of the United States Patent and Trademark Organization shall be treated as public debt transactions of the United States.

SEC. 118. TRANSFERS.

(a) TRANSFER OF FUNCTIONS.—Except as relates to intellectual property policy matters as set out in section 151 of this title, there are transferred to, and vested in, the United States Patent and Trademark Organization all functions, powers, and duties vested by law in the Secretary of Commerce or the Department of Commerce or in the officers or components in the Department of Commerce with respect to the authority to examine patent and trademark applications, and in the Patent and Trademark Office, as in effect on the day before the effective date of this title, and in the officers and components of such Office. Except as otherwise provided in this Act, on the effective date of this Act, there are transferred to, and vested in, the Under Secretary of Commerce for Intellectual Property Policy all functions, powers and duties with respect to the authority to grant and issue patents, to register trademarks and to provide advice on patent and trademark policy vested by law in the Patent and Trademark Office, and in the officers and components of such Office.

(b) TRANSFER OF FUNDS AND PROPERTY.—The Secretary of Commerce shall transfer to the United States Patent and Trademark Organization, on the effective date of this title, so much of the assets, liabilities, contracts, property, records, and unexpended and unobligated balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available to the Department of Commerce, including funds set aside for accounts receivable which are related to functions, powers, and duties which are vested in the United States Patent and Trademark Office by this title.

SEC. 119. USE OF ORGANIZATION NAME.

The use of the terms ''United States Patent and Trademark Organization'', ''Patent and Trademark Office'', ''United States Patent Office'', ''Patent Office'', ''United States Trademark Office'', ''Trademark Office'', or any combination of such terms, as the name or part thereof under which an individual or entity does business, is prohibited. A violation of this section may be enjoined by any Federal court at the suit of the Organization. In any such suit, the Organization shall be entitled to statutory damages of $1,000 for each day during which such violation continues or is repeated following notice by the Organization and, in addition, may recover actual damages flowing from such violations.

Subtitle B—Effective Date; Technical Amendments

SEC. 131. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect 4 months after the date of the enactment of this Act.

SEC. 132. TECHNICAL AND CONFORMING AMENDMENTS.

(a) AMENDMENTS TO TITLE 35.—

(1) TABLE OF PARTS.—The item relating to part I in the table of parts for title 35, United States Code, is amended to read as follows:

''I. United States Patent Office ..... 1.''.

(2) HEADING.—The heading for part I of title 35, United States Code, is amended to read as follows:

''PART I—UNITED STATES PATENT OFFICE''.

(3) TABLE OF CHAPTERS.—The table of chapters for part I of title 35, United States Code, is amended by amending the item relating to chapter 1 to read as follows:

''1. Establishment, Officers and Employees, Functions ..... 1''.

(4) TABLE OF SECTIONS.—The table of sections for chapter 1 of title 35, United States Code, is amended to read as follows:

''CHAPTER 1—ESTABLISHMENT, OFFICERS AND EMPLOYEES, FUNCTIONS

''Sec.
''1. Establishment.
''2. Powers and duties.
''3. Officers and employees.
''4. Restrictions on officers and employees as to interest in patents.
''5. Patent Office Management Advisory Board.
''6. Duties of Commissioner.
''7. Board of Patent Appeals and Interferences.
''8. Library.
''9. Classification of patents.
''10. Certified copies of records.
''11. Publications.
''12. Exchange of copies of patents with foreign countries.
''13. Copies of patents for public libraries.
''14. Annual report to Congress.''.

(5) COMMISSIONER OF PATENTS AND TRADEMARKS.—(A) Section 41(h)(1) of title 35, United States Code, is amended by striking ''Commissioner of Patents and Trademarks'' and inserting ''Commissioner''.

(B) Section 155 of title 35, United States Code, is amended by striking ''Commissioner of Patents and Trademarks'' and inserting ''Commissioner''.

(C) Section 155A(c) of title 35, United States Code, is amended by striking ''Commissioner of Patents'' and inserting ''Commissioner''.

(6) PATENT AND TRADEMARK OFFICE.—The provisions of title 35, United States Code, are amended by striking ''Patent and Trademark Office'' each place it appears and inserting ''Patent Office''.

(7) SECRETARY OF COMMERCE.—Section 157(d) of title 35, United States Code, is amended by striking ''Secretary of Commerce'' and inserting ''Director of the United States Patent and Trademark Organization''.

(b) AMENDMENTS TO THE TRADEMARK ACT OF 1946.—

(1) REFERENCES.—All amendments in this subsection refer to the Act of July 5, 1946 (commonly referred to as the Trademark Act of 1946).

(2) AMENDMENTS RELATING TO COMMISSIONER.—Section 61 (as redesignated by section 115(a)(2) of this Act) is amended by striking the undesignated paragraph relating to the definition of the term ''Commissioner'' and inserting the following:

''The term 'Commissioner' means the Commissioner of Trademarks.''.

(3) AMENDMENTS RELATING TO PATENT AND TRADEMARK OFFICE.—(A) Section 1(a)(1) is amended by striking ''Patent and Trademark Office'' and inserting ''Trademark Office''.

(B) Section 1(a)(2) is amended by striking ''Patent and Trademark Office'' and inserting ''Trademark Office''.

(C) Section 1(b)(1) is amended by striking ''Patent and Trademark Office'' and inserting ''Trademark Office''.

(D) Section 1(b)(2) is amended by striking ''Patent and Trademark Office'' and inserting ''Trademark Office''.

(E) Section 1(d)(1) is amended by striking ''Patent and Trademark Office'' each place such term appears and inserting ''Trademark Office''.

(F) Section 1(e) is amended by striking ''Patent and Trademark Office'' and inserting ''Trademark Office''.

(G) Section 2(d) is amended by striking ''Patent and Trademark Office'' and inserting ''Trademark Office''.

(H) Section 7(a) is amended by striking ''Patent and Trademark Office'' each place such term appears and inserting ''Trademark Office''.

(I) Section 7(d) is amended by striking ''Patent and Trademark Office'' and inserting ''Trademark Office''.

(J) Section 7(e) is amended by striking ''Patent and Trademark Office'' each place such term appears and inserting ''Trademark Office''.

(K) Section 7(f) is amended by striking ''Patent and Trademark Office'' each place such term appears and inserting ''Trademark Office''.

(L) Section 7(g) is amended by striking ''Patent and Trademark Office'' each place such term appears and inserting ''Trademark Office''.

(M) Section 8(a) is amended by striking ''Patent and Trademark Office'' and inserting ''Trademark Office''.

(N) Section 8(b) is amended by striking ''Patent and Trademark Office'' and inserting ''Trademark Office''.

(O) Section 10 is amended by striking ''Patent and Trademark Office'' each place such term appears and inserting ''Trademark Office''.

(P) Section 12(a) is amended by striking ''Patent and Trademark Office'' and inserting ''Trademark Office''.

(Q) Section 13(a) is amended by striking ''Patent and Trademark Office'' and inserting ''Trademark Office''.

(R) Section 13(b)(1) is amended by striking ''Patent and Trademark Office'' each place such term appears and inserting ''Trademark Office''.

(S) Section 15(2) is amended by striking ''Patent and Trademark Office'' and inserting ''Trademark Office''.

(T) Section 17 is amended by striking ''Patent and Trademark Office'' and inserting ''Trademark Office''.

(U) Section 21(a)(2) is amended by striking ''Patent and Trademark Office'' and inserting ''Trademark Office''.

(V) Section 21(a)(3) is amended by striking ''Patent and Trademark Office'' each place such term appears and inserting ''Trademark Office''.

(W) Section 21(a)(4) is amended by striking ''Patent and Trademark Office'' each place such term appears and inserting ''Trademark Office''.

(X) Section 21(b)(3) is amended by striking ''Patent and Trademark Office'' each place such term appears and inserting ''Trademark Office''.

(Y) Section 21(b)(4) is amended by striking ''Patent and Trademark Office'' and inserting ''Trademark Office''.

(Z) Section 24 is amended by striking ''Patent and Trademark Office'' and inserting ''Trademark Office''.

(AA) Section 29 is amended by striking ''Patent and Trademark Office'' each place such term appears and inserting ''Trademark Office''.

(BB) Section 30 is amended by striking ''Patent and Trademark Office'' and inserting ''Trademark Office''.

(CC) Section 31(a) is amended by striking ''Patent and Trademark Office'' and inserting ''Trademark Office''.

(DD) Section 34(a) is amended by striking ''Patent and Trademark Office'' and inserting ''Trademark Office''.

(EE) Section 34(d)(1)(B)(i) is amended by striking ''Patent and Trademark Office'' and inserting ''Trademark Office''.

(FF) Section 35(a) is amended by striking ''Patent and Trademark Office'' and inserting ''Trademark Office''.

(GG) Section 36 is amended by striking ''Patent and Trademark Office'' and inserting ''Trademark Office''.

(HH) Section 37 is amended by striking ''Patent and Trademark Office'' and inserting ''Trademark Office''.

(II) Section 38 is amended by striking ''Patent and Trademark Office'' and inserting ''Trademark Office''.

(JJ) Section 39(b) is amended by striking ''Patent and Trademark Office'' and inserting ''Trademark Office''.

(KK) Section 41 is amended by striking ''Patent and Trademark Office'' and inserting ''Trademark Office''.

(LL) Section 61 (as redesignated under section 115(a)(2) of this Act) is amended in the undesignated paragraph relating to the definition of ''registered mark''—

(i) by striking ''Patent and Trade Mark Office'' and inserting ''Trademark Office; and

(ii) by striking ''Patent and Trade Office'' and inserting ''Trademark Office''.

(MM) Section 72(a) (as redesignated under section 115(a)(2) of this Act) is amended by striking ''Patent and Trademark Office'' and inserting ''Trademark Office''.

(NN) Section 76 (as redesignated under section 115(a)(2) of this Act) is amended by striking ''Patent and Trademark Office'' and inserting ''Trademark Office''.

(c) AMENDMENTS TO TITLE 5.—Title 5, United States Code, is amended—

(1) in section 5102(c)(23)—

(A) by striking ''examiners-in-chief'' in each place it appears and inserting ''administrative patent judges''; and

(B) by striking ''Office, Department of Commerce'' and inserting ''Organization''; and

(2) in section 5316—

(A) by striking ''Commissioner of Patents, Department of Commerce.''; and

(B) by striking:

''Deputy Commissioner of Patents and Trademarks.

''Assistant Commissioner for Patents.

''Assistant Commissioner for Trademarks.''.

(d) AMENDMENT TO TITLE 31.—Section 9101(3) of title 31, United States Code, is amended by adding at the end the following:

''(R) the United States Patent and Trademark Organization.''.

(e) AMENDMENTS TO INSPECTOR GENERAL ACT OF 1978.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1) by striking ''or the Commissioner of Social Security, Social Security Administration;'' and inserting ''the Commissioner of Social Security, Social Security Administration; or the Director of the United States Patent and Trademark Organization, United States Patent and Trademark Organization;''; and

(2) in paragraph (2) by striking ''or the Veterans' Administration, or the Social Security Administration;'' and inserting ''the Veterans' Administration, the Social Security Administration, or the United States Patent and Trademark Organization;''.

Subtitle C—Miscellaneous Provisions

SEC. 141. REFERENCES.

Any reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to a department, agency, or office from which a function is transferred by this title—

(1) to the head of such department, agency, or office is deemed to refer to the head of the department, agency, or office to which such function is transferred; or

(2) to such department, agency, or office is deemed to refer to the department, agency, or office to which such function is transferred.

SEC. 142. EXERCISE OF AUTHORITIES.

Except as otherwise provided by law, a Federal official to whom a function is transferred by this title may, for purposes of performing the function, exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date of the transfer of the function under this title.

SEC. 143. SAVINGS PROVISIONS.

(a) LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, grants, loans, contracts, agreements, certificates, licenses, and privileges that—

(1) have been issued, made, granted, or allowed to become effective by the President, the Secretary of Commerce, any officer or employee of any office transferred by this title, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred by this title, and

(2) are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date), shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, any other authorized official, a court of competent jurisdiction, or operation of law.

(b) PROCEEDINGS.—This title shall not affect any proceedings or any application for any benefits, service, license, permit, certificate, or financial assistance pending on the effective date of this title before an office transferred by this title, but such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this title had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be considered to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this title had not been enacted.

(c) SUITS.—This title shall not affect suits commenced before the effective date of this title, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this title had not been enacted.

(d) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Department of Commerce or the Secretary of Commerce, or by or against any individual in the official capacity of such individual as an officer or employee of an office transferred by this title, shall abate by reason of the enactment of this title.

(e) CONTINUANCE OF SUITS.—If any Government officer in the official capacity of such officer is party to a suit with respect to a function of the officer, and under this title such function is transferred to any other officer or office, then such suit shall be continued with the other officer or the head of such other office, as applicable, substituted or added as a party.

(f) ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.—Except as otherwise provided by this title, any statutory requirements relating to notice, hearings, action upon the record, or administrative or judicial review that apply to any function transferred by this title shall apply to the exercise of such function by the head of the Federal agency, and other officers of the agency, to which such function is transferred by this title.

SEC. 144. TRANSFER OF ASSETS.

Except as otherwise provided in this title, so much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with a function transferred to an official or agency by this title shall be available to the official or the head of that agency, respectively, at such time or times as the Director of the Office of Management and Budget directs for use in connection with the functions transferred.

SEC. 145. DELEGATION AND ASSIGNMENT.

(a) IN GENERAL.—Except as otherwise expressly prohibited by law or otherwise provided in this title, an official to whom functions are transferred under this title (including the head of any office to which functions are transferred under this title) may—

(1) delegate any of the functions so transferred to such officers and employees of the office of the official as the official may designate; and

(2) authorize successive redelegations of such functions as may be necessary or appropriate.

(b) RESPONSIBILITY FOR ADMINISTRATION.—No delegation of functions under this section or under any other provision of this title shall relieve the official to whom a function is transferred under this title of responsibility for the administration of the function.

SEC. 146. AUTHORITY OF DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET WITH RESPECT TO FUNCTIONS TRANSFERRED.

(a) DETERMINATIONS.—If necessary, the Director of the Office of Management and Budget shall make any determination of the functions that are transferred under this title.

(b) INCIDENTAL TRANSFERS.—The Director of the Office of Management and Budget, at such time or times as the Director shall provide, may make such determinations as may be necessary with regard to the functions transferred by this title, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out the provisions of this title.

(c) TERMINATION OF AFFAIRS.—The Director shall provide for the termination of the affairs of all entities terminated by this title and for such further measures and dispositions as may be necessary to effectuate the purposes of this title.

SEC. 147. CERTAIN VESTING OF FUNCTIONS CONSIDERED TRANSFERS.

For purposes of this title, the vesting of a function in a department, agency, or office pursuant to reestablishment of an office shall be considered to be the transfer of the function.

SEC. 148. AVAILABILITY OF EXISTING FUNDS.

Existing appropriations and funds available for the performance of functions, programs, and activities terminated pursuant to this title shall remain available, for the duration of their period of availability, for necessary expenses in connection with the termination and resolution of such functions, programs, and activities.

SEC. 149. DEFINITIONS.

For purposes of this title—

(1) the term ''function'' includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program; and

(2) the term ''office'' includes any office, administration, agency, bureau, institute, council, unit, organizational entity, or component thereof.

Subtitle D—Establishment of the Under Secretary of Commerce for Intellectual Property Policy

SEC. 151. UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY POLICY.

(a) APPOINTMENT.—There shall be within the Department of Commerce an Under Secretary of Commerce for Intellectual Property Policy, who shall be appointed by the President, by and with the advice and consent of the Senate, at level III of the Executive Schedule. On or after the effective date of this title, the President may designate an individual to serve as the Acting Under Secretary until the date on which an Under Secretary qualifies under this subsection.

(b) DUTIES.—The Under Secretary of Commerce for Intellectual Property Policy, under the direction of the Secretary of Commerce, shall perform the following functions with respect to intellectual property policy:

(1) Grant patents and register trademarks.

(2) In coordination with the Under Secretary of Commerce for International Trade, promote exports of goods and services of the United States industries that rely on intellectual property.

(3) Advise the President, through the Secretary of Commerce, on national and certain international issues relating to intellectual property policy, including issues in the areas of patents, trademarks, and copyrights.

(4) Advise Federal departments and agencies on matters of intellectual property protection in other countries.

(5) Provide guidance, as appropriate, with respect to proposals by agencies to assist foreign governments and international intergovernmental organizations on matters of intellectual property protection.

(6) Conduct programs and studies related to the effectiveness of intellectual property protection throughout the world.

(7) Advise the Secretary of Commerce on programs and studies relating to intellectual property policy that are conducted, or authorized to be conducted, cooperatively with foreign patent and trademark offices and international intergovernmental organizations.

(8) In coordination with the Department of State, conduct programs and studies cooperatively with foreign intellectual property offices and international intergovernmental organizations.

(c) DEPUTY UNDER SECRETARIES.—To assist the Under Secretary of Commerce for Intellectual Property Policy, the Secretary of Commerce shall appoint a Deputy Under Secretary for Patent Policy and a Deputy Under Secretary for Trademark Policy, as members of the Senior Executive Service in accordance with the provisions of title 5, United States Code. The Deputy Under Secretaries shall perform such duties and functions as the Under Secretary shall prescribe.

(d) COMPENSATION.—Section 5314 of title 5, United States Code, is amended by adding at the end the following: ''Under Secretary of Commerce for Intellectual Property Policy.''

(e) FUNDING.—Funds available to the United States Patent and Trade Organization shall be made available for all expenses of the Office of the Under Secretary of Commerce for Intellectual Property Policy, subject to prior approval in appropriations Acts. Amounts made available under this subsection shall not exceed 2 percent of the projected annual revenues of the United States Patent and Trademark Organization from fees for services and goods of that Organization. The Secretary of Commerce shall determine the budget requirements of the Office of the Under Secretary for Intellectual Property Policy.

(f) CONSULTATION.—In connection with the performance of his duties under this section, the Under Secretary shall, on appropriate matters, consult with the Register of Copyrights.

SEC. 152. RELATIONSHIP WITH EXISTING AUTHORITIES.

(a) NO DEROGATION.—Nothing in section 151 shall derogate from the duties of the United States Trade Representative or from the duties of the Secretary of State. In addition, nothing in this title shall derogate from the duties and functions of the Register of Copyrights or otherwise alter current authorities relating to copyright matters.

(b) CLARIFICATION OF AUTHORITY OF THE COPYRIGHT OFFICE.—Section 701 of title 17, United States Code, is amended—

(1) by redesignating subsections (b) through (e) as subsections (c) through (f), respectively; and

(2) by inserting after subsection (a) the following:

''(b) In addition to the functions and duties set out elsewhere in this chapter, the Register of Copyrights shall perform the following functions:

''(1) Advise Congress on national and international issues relating to copyright, semiconductor chip protection, and related matters.

''(2) Provide information and assistance to Federal departments and agencies and the Judiciary on national and international issues relating to copyright, semiconductor chip protection, and related matters.

''(3) Participate in meetings of international intergovernmental organizations and meetings with foreign government officials relating to copyright, semiconductor chip protection, and related matters, including as a member of United States delegations as authorized by the appropriate Executive Branch authority.

''(4) Conduct studies and programs regarding copyright, semiconductor chip protection, and related matters, the administration of the Copyright Office, or any function vested in the Copyright Office by law, including educational programs conducted cooperatively with foreign intellectual property offices and international intergovernmental organizations.

''(5) Perform such other functions as Congress may direct, or as may be appropriate in furtherance of the functions and duties specifically set forth in this title.''

● Mr. LEAHY. Mr. President, I am here once again to talk about S. 507, the Omnibus Patent Act of 1997. On this date back in 1878, a gentleman named Thaddeus Hyatt was granted a patent for reinforced concrete. Now, 120 years later, the Senate is refusing to reinforce American innovation by failing to take concrete action to reform our nation's patent laws.

We are presented with an opportunity that will not soon repeat itself—an opportunity to pass S. 507 and give U.S. inventors longer patent terms, put more royalties in their pockets, save them money in costly patent litigation, and avoid wasting their development resources on duplicative research. At the same time, we can get our new technology more rapidly into the marketplace and make U.S. companies more competitive globally.

Remaining globally competitive is not an idle concern. The failure of this body to enact the reforms of our patent system contained in S. 507 has given foreign entities applying for and receiving patents in the U.S. unfair advantages over U.S. firms—advantages that U.S. persons filing and doing business abroad do not have. This ability to keep U.S. inventors in the dark about the latest technological developments does not work to our economic advantage. Why are we turning our backs on our businesses, small and large, by not voting on this bill?

I have made recent speeches citing the strong support this legislation has around the country. This legislation has more than just Vermont or any state in mind. It has the entire country in its best interest. Our 200 year old patent system has provided protections to many of our inventions that have led to our global economic leadership position in the world marketplace. However, that leadership position is being threatened. Litigation has increased. Small inventors have been taken advantage of. Inventors and businesses are asking for our help and requesting that we pass S. 507.

The Senate Judiciary Committee reported this bill out over a year ago by an overwhelmingly bipartisan vote of 17–1, *17–1,* and this bill has yet to see the light of day on the floor. No longer can we turn the other cheek when

American business lets out such a cry for help. We need to bring this bill to the floor now and to pass it. We must not squander this opportunity to not only update our patent system but to come to America's defense.

I inserted into the RECORD on June 23, letters of support from the White House Conference on Small Businesses, the National Association of Women Business Owners, the Small Business Technology Coalition, National Small Business United, the National Venture Capital Association, and the 21st Century Patent Coalition.

On July 10, I inserted in the RECORD additional letters of support from The Chamber of Commerce of the United States of America; the Pharmaceutical Research and Manufactures of American, PhRMA; the American Automobile Manufacturers Association; the Software Publishers Association; the Semiconductor Industry Association; the Business Software Alliance; the American Electronics Association; and the Institute of Electrical and Electronics Engineers, Inc.

I now ask unanimous consent that additional letters of support for S. 507 be included in the RECORD. These letters are from IBM; the Biotechnology Industry Organization; the International Trademark Association; 3M; Intel Corporation; Caterpillar; AMP Incorporated; and Hewlett-Packard Company.

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

HEWLETT-PACKARD COMPANY,
Palo Alto, CA, June 22, 1998.

Hon. PATRICK J. LEAHY,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR LEAHY: S. 507, the Omnibus Patent Act, has been reported out of the Judiciary Committee, but it appears that Majority Leader Lott needs some encouragement to schedule the bill for floor action. Hewlett-Packard Company strongly supports enactment of S. 507 and would appreciate your support in urging Senator Lott to put the bill on the calendar.

Enactment of S. 507 would assure that inventors can receive a full 17 years—or more—of patent protection if they pursue their patent claims in a timely manner. It would also streamline patent operations to expedite processing and accelerate the dissemination of new technologies for continuing advancement in products and services.

Significantly, S. 507 achieves these important goals without threatening a return to the ''submarine patent'' system that existed before the 1995 reform. Under the old policy, an inventor could manipulate the patent system to stretch the term even while withholding the new knowledge from society. Prior to 1995, inventors could wait until the technology had ripened, and then essentially extort license fees from another inventor who had independently, in good faith, created the same or a similar invention.

While ''submarine patents'' are infrequent, when they strike, they are egregious. In an HP case, for example, the company has paid millions of dollars in royalties to a Swedish inventor whose patent has expired in every other country except the United States. This inventor contributed nothing to the technology that is in use, in fact, he did not offer to work with the consortium that was developing the technology in an open-systems environment. A more thorough explanation of that case is attached for your review.

Senator Hatch and other supporters of S. 507 have worked diligently with small business and independent inventors to resolve concerns about the bill. It is a good compromise for a more effective patent system as we head into the 21st century. HP urges your support for S. 507 without weakening amendments that would revive the submarine patent system.

Sincerely,

LEW PLATT.

IBM, INTERNET MEDIA GROUP,
Essex Junction, VT, June 6, 1998.

Hon. PATRICK LEAHY,
U.S. Senate, Washington, DC.

DEAR SENATOR LEAHY: As an inventor I rely on the strength of the U.S. patent system to legally protect my invention(s). I am also the chairman of an ANSI standardization committee (NCITS L3.1) which represents the United States in an International Standardization Forum (ISO/IEC JTC 1/SC 29/WG 11). Our committee has developed the Emmy Award winning standard called MPEG–2, a standard which may have never come to pass had it not been for strong International patent protection. We are currently working on the future of International Multimedia (MPEG–4), a standard which promises to be as popular and widely used as MPEG–2 will be. The strength of the patent laws is essential to promoting participation and the development of International Standards. However, the system which for years has effectively encouraged innovation and protected inventors, is no longer effective. As significant number of ways have been found to abuse it, such as people and/or companies obtaining inappropriate patents and in some cases pilfering others' hard-earned invention. This threatens to undermine America's position as the global leader in technology innovation. I am proud that my work as an inventor has contributed to IBM's patent portfolio.

There is now legislation pending before you that will help restore leadership and integrity to the U.S. patent system. It is responsive to today's fast paced, highly competitve environment, and it will protect inventors like me. I am writing to ask you to urge Majority Leader Lott (R-MS) to bring S. 507, the Omnibus Patent Act of 1997, to the Senate floor as soon as possible and for you to support its final passage.

The bipartisan Omnibus Patent Act of 1997, S. 507, was passed out of the Senate Judiciary Committee 17–1 and has not yet been brough up for a floor vote. The House of Representatives also passed a similar bill in May 1997. Five former Commissioners of the Patent and Trademark Office (PTO) support this bill. A Senate floor vote is the only way to continue the process to enact this legislation that would help protect inventors and companies from patent system abuse.

Please help protect America's intellectual property and urge Majority Leader Lott (R-MS) to bring this bill to the floor for a vote. Thank you for your attention to this matter, and as a concerned constituent, I request your support of this legislation.

Sincerly,

PETER P. SCHIRLING,
Senior Engineer.

BIOTECHNOLOGY INDUSTRY ORGANIZATION,
June 18, 1998.

U.S. SENATOR,
Washington, DC.

Re: Scheduling Debate on Patent Reform Legislation, S. 507 (Hatch/Leahy)

DEAR SENATOR: We are writing to urge you to support scheduling of the patent reform legislation, S. 507, on the Senate floor before the August recess. This legislation is supported by an overwhelming majority of the Senators and the few Senators who have amendments to offer can easily be accommodated in a time agreement.

BIO has been working on this critical legislation for four years, the House passed the bill by a lopsided and bipartisan margin, and it emerged from the Senate Judiciary Committee on a near-unanimous vote. There are very few issues for the Senate debate or conference with the House. It should be easy to complete action on this bill and enact it into law this session. Doing so will be a major victory for biomedical and other research.

The bill answers the concerns raised by the biotechnology industry and other high technology industries regarding the erosion of patents caused by the adoption of the GATT 20 year-from-filing regime. We need to enact this bill to provide vital protection to biotechnology firms conducting research on cures and therapies for cancer, AIDS, Alzheimer's, and other deadly and disabling diseases.

The Biotechnology Industry Organization (BIO) represents almost 800 companies and organizations that use or support biotechnology research. Our companies are finding the next generation of medicines and cures for endemic diseases that diminish the quality of life for all Americans. On a per capita basis, our companies invest more in research and development than any other industry—almost ten times the national average—or about $100,000 per employee per year. This industries investment (almost 10 billion dollars in 1998) is protected primarily through the patent system.

Patents as an incentive for this critical research. Without patents this research would stop because no investor will fund this research without patents. This is why the patent term protections in this bill are so important. The Hatch-Leahy patent term bill provides complete and unequivocal protections to ensure that diligent patent applicants will not lose patent term under the new GATT 20 year patent law.

There is no industry which has lost more in patent protection under the new GATT 20 year patent term than the biotechnology industry. Our industry has been working for three years to secure protections so that diligent patent applicants cannot, and will not, lose patent protection under this new law. It is imperative that the GATT law be amended to protect diligent patent applicants this year.

Diligent patent applicants cannot lose patent term under the patent term provisions of Hatch-Leahy bill. If there are any delays in the grant of a patent by the Patent and Trademark Office (PTO) which are beyond the applicant's control, the applicant is given extra patent term—day-for-day compensation. This is a similar system which now applies when a patent holder loses patent term due to delays in the approval of a product by the Food and Drug Administration. So, the solution provided by the Hatch-Leahy bill is tried and tested and it works.

In addition to these patent term provisions, the Hatch-Leahy bill also provides for publication of internationally filed patent applications 18 months after filing and BIO supports this provision as well. Our companies file for patents in Europe and Japan where all applications are published after 18 months. Therefore 18 month publication in the United States will place U.S. companies on equal footing to their European and Asian competitors.

We enthusiastically support the patent term and publication provisions of the Hatch-Leahy bill, know that it solves the patent term problem, urge you to support

scheduling of this bill and support final passage. The current GATT/TRIPS law is very problematic for the biotechnology industry and enactment of S. 507 is needed to eliminate the disincentive for biomedical research.

Please contact us with any questions about this critical issue; we would be pleased to meet with you to discuss them. 857–0244.

Sincerely,

CHARLES E. LUDLAM,
Vice President for Government Relations.

DAVE SCHMICKEL,
Patent and Legal Counsel.

INTERNATIONAL TRADEMARK ASSOCIATION,
Washington, DC, May 8, 1998.

Hon. PATRICK J. LEAHY,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR LEAHY: You already know of our association's strong support for S. 507, the Omnibus Patent Reform Act. Our members are trademark owners located in every state of the union. This bipartisan bill makes important changes to the U.S. Patent and Trademark Office (USPTO) that are necessary to enable the USPTO to respond efficiently and effectively to the tremendous growth in trademark applications generated by our robust economy.

With next week designated as ''High Tech Week'' in the Senate, where legislation dealing with new technology will be considered, there is no bill that is more deserving of attention and support at this time than S. 507. By converting the USPTO into a government corporation that is 100% user-fee funded, S. 507 will free the agency from constraints which have long hampered efficient operations. Passage of this important legislation will ensure that new products and inventions receive the protection they need both here at home and in global markets.

S. 507 provides great value to intellectual property owners and should be allowed to proceed to the Senate floor. We ask for your help in gaining passage of S. 507.

Sincerely,

DAVID STIMSON,
President.

3M COMPANY, OFFICE OF INTELLECTUAL PROPERTY COUNSEL,
June 9, 1998.

Hon. PATRICK LEAHY,
U.S. Senate, Washington, DC.

DEAR SENATOR LEAHY: I am writing to express the strong support of the 3M Company for the reforms contained in S. 507, the Hatch/Leahy Omnibus Patent Reform Act, and to request that you ask Senator Lott to schedule it for a Senate vote as soon as possible. S. 507 is critically important to U.S. industry. Its reforms will strengthen and improve the United States patent system, allowing American industry to compete more effectively with its foreign competition.

S. 507 will give the U.S. Patent and Trademark Office the administrative flexibility to operate at peak efficiency, save inventors money, and accelerate patent processing. It will allow American inventors and companies to see foreign technology contained in U.S. patent applications more than a year earlier than today, while ensuring that domestic inventors who choose not to take advantage of publication before patent grant may continue to do so if they do not file outside of the U.S. The legislation will guarantee diligent applications a patent term of at least 17 years from grant and most will receive an even longer term of exclusivity. S. 507 would also make existing reexamination procedures more effective by allowing greater third party participation, while adding numerous safeguards to protect against abuse.

One specific reform of S. 507 which 3M most strongly supports is that of creating a prior domestic commercial use defense. This long overdue reform will protect manufacturing jobs in American companies like 3M by ensuring that a late filed patent—nearly one-half of U.S. patents are foreign owned—will not disrupt domestic manufacturing operations. Important technology underlying our successful Post-it® Notes such as those attached to this letter—and the jobs of the American workers who produce them—will be made safer against foreign attack by the passage of S. 507.

The reforms in S. 507 are designed to improve the functioning of the patent system for all users, large and small. In fact, Senators Hatch and Leahy have recently agreed to amend their bill on the Senate floor in response to requests from small businesses. With these changes, key small business constituencies such as the Technology Chairs of the White House Conference on Small Business, the National Association of Women Business Owners, and the Small Business Technology Coalition have expressed their enthusiastic support for S. 507.

U.S. industry needs these patent reforms now. Support S. 507 and urge Senator Lott to bring it to a vote promptly.

Sincerely,

GARY L. GRISWOLD,
Staff Vice President and Chief Intellectual Property Counsel.

INTEL CORPORATION,
Santa Clara, CA, June 12, 1998.

Hon. PATRICK J. LEAHY, U.S. SENATE, RUSSELL SENATE OFFICE BUILDING.

DEAR SENATOR LEAHY: For the past four years, Intel has been an active participant in the 21st Century Patent Coalition, which supports the enactment of patent reform legislation (S. 507). S. 507 would accomplish three broad goals of vital importance to our industry: modernizing patent administration, improving and simplifying dispute resolution procedures in the Patent and Trademark Office, and strengthening inventors' rights in a number of ways, most importantly by protecting them from loss of term due to Patent Office delays. Our coalition has the support of over 80 major American industrial companies and 22 industry associations that are composed, primarily, of small businesses.

Now, S. 507—which passed the House on a voice vote last year, and was approved in the Senate Judiciary by a vote of 17–1—is ready for floor action in the Senate. Our coalition has worked hard to address any and all legitimate concerns about the taxt of the bill and its impact upon small business entities and independent inventors, and we believe that it would, if enacted, create the most pro-inventor patent system in the world. It has recently received the enthusiastic support of the White House Conference on Small Business Technology Chairs, the National Association of Women Business Owners, and the Small Business Technology Coalition.

The patent system we have today will be ill equipped to serve the needs of inventors in the next century if the improvements provided for in S. 507 are not made. We ask for your help in scheduling S. 507 for a floor vote, and for your support for the Committee bill on final passage.

Your support will help preserve America's role as the world's technology leader.

Sincerely,

CARL SILVERMAN,
Director of Intellectual Property.

CATERPILLAR INC.,
Peoria, IL, June 3, 1998.

Hon. PATRICK J. LEAHY,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR LEAHY: I am writing to express Caterpillar's strong support for S. 507 (Hatch/Leahy), The Omnibus Patent Act of 1997. As you know, S. 507 was reported from the Senate Judiciary Committee on a vote of 17–1 and is awaiting Senate floor action. A companion bill passed the House last year.

S. 507 would modernize the U.S. patent system through major improvements in our patent laws that will greatly benefit America's large and small businesses, inventors and entrepreneurs. For Caterpillar, this legislation will mean reduced costs, reduced risk, reduced bureaucracy, fewer lawsuits, more certainty regarding property rights, and generally a faster, more responsive patent system.

Equally significant, key small business groups now agree that S. 507 will streamline the patent process and help America's inventors who currently suffer from delays in the patent office that are not their fault.

It's time for the Senate to vote on this bill to help strengthen the U.S. economy and keep jobs in America.

I urge you to contact Majority Leader Lott in support of early scheduling of S. 507 for floor debate, and support the efforts of its sponsors to adopt a bill without weakening amendments.

Sincerely,

WILLIAM B. HEMING,
General Patent Counsel.

AMP INCORPORATED,
Washington, DC, June 3, 1998.

Hon. PATRICK J. LEAHY,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR LEAHY: Please ask Senator Lott to bring S. 507, the Hatch-Leahy Omnibus Patent Act, to the floor as soon as possible. This patent reform is important to AMP, our employees, and the hundreds of inventors in our company who think up new ideas to produce better products, to keep our company competitive, and to create new jobs.

It's time to bring this bill up for a vote. The technology chairs of the White House Conference on Small Business have approved S. 507 because, ''(it) will lower the litigation costs for small business, make it easier to know what areas of technology are open for innovation, and will go a long way towards giving us a more level playing field vis-a-vis our foreign competitors.'' AMP and the dozens of other companies and associations in the 21th Century Patent Coalition agree.

This bill has undergone months and months of scrutiny and compromise and is now ready for a vote. I hope you'll encourage the Majority Leader to schedule floor time for this reasonable reform measure.

If you need any more information about S. 507, please let me know.

Sincerely,

JOHN PALAFOUTAS,
Director, Federal Relations.●

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

HARKIN (AND OTHERS) AMENDMENT NO. 3175

Mr. HARKIN (for himself, Mr. LEAHY, Mr. KENNEDY, Mr. TORRICELLI, Mr.

DURBIN, Mr. WELLSTONE, Ms. MIKULSKI, Mrs. MURRAY, and Mr. KERRY) proposed an amendment to the bill, S. 2159, supra; as follows:

On page 67, after line 23, insert the following:

SEC. 7___. FOOD SAFETY INITIATIVE.

(a) IN GENERAL.—In addition to the amounts made available under other provisions of this Act, there are appropriated, out of any money in the Treasury not otherwise appropriated, to carry out activities described in the Food Safety Initiative submitted by the President for fiscal year 1999—

(1) $98,000 to the Chief Economist;

(2) $906,000 to the Economic Research Service;

(3) $8,920,000 to the Agricultural Research Service;

(4) $11,000,000 to the Cooperative State Research, Education, and Extension Service;

(5) $8,347,000 to the Food Safety and Inspection Service; and

(6) $37,000,000 to the Food and Drug Administration.

1. *Amendment of the No Net Cost Fund assessments to provide for collection of all administrative costs not previously covered and all crop insurance costs for tobacco.* Section 106A of the Agricultural Act of 1949, as amended, 7 U.S.C. 1445–1(c), is hereby amended by, in (d)(7) changing ''the Secretary'' to ''the Secretary; and'' and by adding a new clause, (d)(8) read as follows:

''(8) Notwithstanding any other provision of this subsection or other law, that with respect to the 1999 and subsequent crops of tobacco for which price support is made available and for which a Fund is maintained under this section, an additional assessment shall be remitted over and above that otherwise provided for in this subsection. Such additional assessment shall be equal to: (1) the administrative costs within the Department of Agriculture that not otherwise covered under another assessment under this section or under another provision of law; and (2) any and all net losses in federal crop insurance programs for tobacco, whether those losses be on price-supported tobacco or on other tobaccos. The Secretary shall estimate those administrative and insurance costs in advance. The Secretary may make such adjustments in the assessment under this clause for future crops as are needed to cover shortfalls or over-collections. The assessment shall be applied so that the additional amount to be collected under this clause shall be the same for all price support tobaccos (and imported tobacco of like kind) which are marketed or imported into the United States during the marketing year for the crops covered by this clause. For each domestically produced pound of tobacco the assessment amount to be remitted under this clause shall be paid by the purchaser of the tobacco. On imported tobacco, the assessment shall be paid by the importer. Monies collected pursuant to this section shall be commingled with other monies in the No Net Cost Fund maintained under this section. The administrative and crop insurance costs that are taken into account in fixing the amount of the assessment shall be a claim on the fund and shall be transferred to the appropriate account for the payment of administrative costs and insurance costs at a time determined appropriate by the Secretary. Collections under this clause shall not effect the amount of any other collection established under this section or under another provision of law but shall be enforceable in the same manner as other assessments under this section and shall be subject to the same sanctions for nonpayment.''

2. *Amendment of the No Net Cost Account assessments to provide for collection of all administrative cost not previously covered and all crop insurance costs.* Section 106B of the Agricultural Act of 1949, as amended, 7 U.S.C. 1445–2, is amended by renumbering subsections ''(i)'' and ''(j)'' as ''(j)'' and ''(k)'' respectively, and by adding a new subsection ''(i)'' to read as follows:

''(i) Notwithstanding any other provision of this section or other law, the Secretary shall require with respect to the 1999 and subsequent crops of tobacco for which price support is made available and for which an account is maintained under this section, that an additional assessment shall be remitted over and above that otherwise provided for in this subsection. Such additional assessment shall be equal to: (1) the administrative costs within the Department of Agriculture that are not otherwise covered under another assessment under this section or under another provision of law; and (2) any and all net losses in federal crop insurance programs for tobacco, whether those losses be on price-supported tobacco or on other tobaccos. The Secretary shall estimate those administrative and insurance costs in advance. The Secretary may make such adjustments in the assessments under this clause for future crops as are needed to cover shortfalls or over-collections. The assessment shall be applied so that the additional amount to be collected under this clause shall be the same for all price support tobaccos (and imported tobacco of like kind) which are marketed or imported into the United States during the marketing year for the crops covered by this clause. For each domestically produced pound of tobacco the assessment amount to be remitted under this clause shall be paid by the purchaser of the tobacco. On imported tobacco, the assessment shall be paid by the importer. Monies collected pursuant to this section shall be commingled with other monies in the No Net Cost Account maintained under this section. The administrative and crop issuance costs that are taken into account in fixing the amount of the assessment shall be a claim on the Account and shall be transferred to the appropriate account for the payment of administrative costs and insurance costs at a time determined appropriate by the Secretary. Collections under this clause shall not effect the amount of any other collection established under this section or under another provision of law but shall be enforceable in the same manner as other assessments under this section and shall be subject to the same sanctions for nonpayment.''

3. *Elimination of the Tobacco Budget Assessment.* Notwithstanding any other provision of law, the provisions of Section 106(g) of the Agricultural Act of 1949, as amended, 7 U.S.C. 1445(g) shall not apply or be extended to the 1999 crops of tobacco and shall not, in any case, apply to any tobacco for which additional assessments have been rendered under Sections 1 and 2 of this Act.

Section 4(g) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b(g)) is amended in the first sentence by striking ''$193,000,000'' and inserting ''$177,000,000.''

Amend the figure on page 12 line 20 by reducing the sum by $13,500,000.

Amend page 12 line 25 by striking ''law.'' and inserting in lieu thereof the following: ''law, and an additional $13,500,000 is provided to be available on October 1, 1999 under the provision of this paragraph.''

DODD AMENDMENT NO. 3176

Mr. DODD proposed an amendment to the bill, S. 2159, supra; as follows:

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

SEC. ___. NOTIFICATION OF RECALLS OF DRUGS AND DEVICES.

(a) DRUGS.—Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) is amended by adding at the end the following:

''(o)(1) If the Secretary withdraws an application for a drug under paragraph (1) or (2) of the first sentence of subsection (e) and a class I recall for the drug results, the Secretary shall take such action as the Secretary may determine to be appropriate to ensure timely notification of the recall to individuals that received the drug, including using the assistance of health professionals that prescribed or dispensed the drug to such individuals.

''(2) In this subsection:

''(A) The term 'Class I' refers to the corresponding designation given recalls in subpart A of part 7 of title 21, Code of Federal Regulations, or a successor regulation.

''(B) The term 'recall' means a recall, as defined in subpart A of part 7 of title 21, Code of Federal Regulations, or a successor regulation, of a drug.''.

(b) DEVICES.—Section 518(e) of such Act (21 U.S.C. 360h(e)) is amended—

(1) in the last sentence of paragraph (2), by inserting ''or if the recall is a class I recall,'' after ''cannot be identified''; and

(2) by adding at the end the following:

''(4) In this subsection, the term 'Class I' refers to the corresponding designation given recalls in subpart A of part 7 of title 21, Code of Federal Regulations, or a successor regulation.''.

(c) CONFORMING AMENDMENT.—Section 705(b) of such Act (21 U.S.C. 375(b)) is amended—

(1) by striking ''or gross'' and inserting ''gross''; and

(2) by striking the period and inserting '', or a class I recall of a drug or device as described in section 505(o)(1) or 518(e)(2).''.

ROBB (AND OTHERS) AMENDMENT NO. 3177

Mr. ROBB (for himself, Mr. HOLLINGS, and Ms. MOSELEY-BRAUN) proposed an amendment to the bill, S. 2159, supra; as follows:

On page 13, line 14, strike $97,200,000 and insert $92,200,000, and on page 14, line 17, strike $437,082,000 and insert $432,082,000. On page 18, line 1 strike $424,473,000 and insert $419,473,000. On page 19, line 23, strike $93,000,000 and insert $88,000,000, on page 67, after line 23, add the following:

SEC. . Expenses for computer-related activities of the Department of Agriculture funded through the Commodity Credit Corporation pursuant to section 161(b)(1)(A) of P.L. 104–127 in fiscal year 1999 shall not exceed $50,000,000; provided, that Section 4(g) of the Commodity Credit Corporation Charter Act is amended by striking $178,000,000 and inserting $173,000,000.

SEC. . WAIVER OF STATUE OF LIMITATIONS FOR CERTAIN DISCRIMINATION CLAIMS.

(a) DEFINITION OF ELIGIBLE CLAIM.—In this section, the term ''eligible claim'' means a non-employment-related claim that was filed with the Department of Agriculture on or before July 1, 1997 and alleges discrimination by the Department of Agriculture at any time during the period beginning on January 1, 1981, and ending on December 31, 1996.

(1) in violation of the Equal Credit Opportunity Act (15 U.S.C. 1691 et seq.) in administering—

(A) a farm ownership, farm operating, or emergency loan funded from the Agricultural Credit Insurance Program Account; or

(B) a housing program established under title V of the Housing Act of 1949; or

(2) in the administration of a commodity program or a disaster assistance program.

(b)WAIVER—To the extent permitted by the Constitution, an eligible claim, if commenced not later than 2 years after the date of the enactment of this Act, shall not be barred by any statute of limitations.

(c) ADMINISTRATIVE PROCEEDINGS.

(1) IN GENERAL.—In lieu of bringing a civil action, a claimant may seek a written determination on the merits of an eligible claim by the Secretary of Agriculture if such claim is filed with the Secretary within two years of the date of enactment of this Act.

(2) TIME PERIOD FOR RESOLUTION OF ADMINISTRATIVE CLAIMS.—To the maximum extent practicable, the Secretary shall, within 180 days from the date an eligible claim is filed with Secretary under this subsection, conduct an investigation, issue a written determination, and propose a resolution in accordance with this subsection.

(3) HEARING AND AWARD.—The Secretary shall—

(A) provide the claimant an opportunity for a hearing before making the determination; and

(B) award the claimant such relief as would be afforded under the applicable statute from which the eligible claim arose notwithstanding any statute of limitations.

(d)— STANDARD OF REVIEW.—Federal courts reviewing an eligible claim under this section shall apply a de novo standard of review.

(e) LIMITATION ON ADMINISTRATIVE AWARDS AND SETTLEMENT AUTHORITY AND EXTENSION OF TIME.—

(1) LIMITATION ON ADMINISTRATIVE AWARDS AND SETTLEMENT AUTHORITY.—A proposed administrative award or settlement exceeding $75,000 (other than debt relief) of an eligible claim—

(A) shall not take effect until 90 days after notice of the award or settlement is given to the Attorney General; and

(B) shall not take effect if, during that 90 day period, the Attorney General objects to the award or settlement.

(2) EXTENSION OF TIME.—Notwithstanding subsections (b) and (c), if an eligible claim is denied administratively, the claimant shall have at least 180 days to commence a cause of action in a Federal court of competent jurisdiction seeking a review of such denial.

BROWNBACK (AND DORGAN) AMENDMENT NO. 3178

Mr. COCHRAN (for Mr. BROWNBACK for himself and Mr. DORGAN) proposed an amendment to the bill, S. 2159, supra; as follows:

On page 67, after line 23, add the following:

SEC. 7 . CENSUS OF AGRICULTURE.

(a) IN GENERAL.—Section 2 of the Census of Agriculture Act of 1997 (7 U.S.C. 2204g) is amended—

(1) in subsection (b) by inserting at the end the following: ''In fiscal year 1999 the Secretary of Agriculture is directed to continue to revise the Census of Agriculture to eliminate redundancies in questions asked of farmers by USDA.''

(2) in subsection (d) by deleting in paragraph (1) ''who willfully gives'' and inserting in its place ''shall not give'', and deleting '', shall be fined not more than $500''.

(3) in subsection (d) by deleting in paragraph (2) ''who refuses or willfully neglects'' and inserting in its place ''shall not refuse or willfully neglect'', and deleting '', shall not be fined more than $100''.

LEVIN AMENDMENT NO. 3179

Mr. COCHRAN (for Mr. LEVIN) proposed an amendment to the bill, S. 2159, supra; as follows:

On page 67, after line 23, add the following:

SEC. ___. TREE ASSISTANCE PROGRAM.

(a) IN GENERAL.—The Secretary of Agriculture may use funds for tree assistance made available under Public Law 105–174, to carry out a tree assistance program to owners of trees that were lost or destroyed as a result of a disaster or emergency that was declared by the President or the Secretary of Agriculture during the period beginning May 1, 1998, and ending August 1, 1998, regardless of whether the damage resulted in loss or destruction after August 1, 1998.

(b) ADMINISTRATION.—Subject to subsection (c), the Secretary shall carry out the program, to the maximum extent practicable, in accordance with the terms and conditions of the tree assistance program established under part 783 of title 7, Code of Federal Regulations.

(c) ELIGIBILITY.—A person shall be presumed eligible for assistance under the program if the person demonstrates to the Secretary that trees owned by the person were lost or destroyed by May 31, 1999, as a direct result of fire blight infestation that was caused by a disaster or emergency described in subsection (a).

KERRY (AND ROBB) AMENDMENT NO. 3180

Mr. COCHRAN (for Mr. KERRY for himself and Mr. ROBB) proposed an amendment to the bill, S. 2159, supra; as follows:

On page 67, after line 23, add the following:

SEC. 7___. STUDY OF FUTURE FEDERAL AGRICULTURAL POLICIES.

(a) IN GENERAL.—On the request of the Commission on 21st Century Production Agriculture, the Secretary of Agriculture, acting through the Chief Economist of the Department of Agriculture, shall make assistance and information available to the Commission to enable the Commission to conduct a study to guide the development of future Federal agricultural policies.

(b) DUTIES.—In conducting the study, the Commission shall—

(1) examine a range of future Federal agricultural policies that may succeed the policies established under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.) for the 2003 and subsequent crops, and the impact of such policies on farm income, the structure of agriculture, trade competitiveness, conservation, the environment and other factors;

(2) assess the potential impact of any legislation enacted through the end of the 105th Congress on future Federal agricultural policies; and

(3) review economic agricultural studies that are relevant to future Federal agricultural policies.

(c) REPORT.—Not later than December 31, 1999, the Commission shall submit to the Committee on Agriculture of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry of the Senate, and the Committee on Appropriations of the House of Representatives and the Senate the results of the study conducted under this section.

GRAHAM AMENDMENT NO. 3181

Mr. COCHRAN (for Mr. GRAHAM) proposed an amendment to the bill, S. 2159, supra; as follows:

On page 67, after line 23, add the following:

SEC. ___. INDICATION OF COUNTRY OF ORIGIN OF IMPORTED PERISHABLE AGRICULTURAL COMMODITIES.

(a) DEFINITIONS.—In this section:

(1) FOOD SERVICE ESTABLISHMENT.—The term ''food service establishment'' means a restaurant, cafeteria, lunch room, food stand, saloon, tavern, bar, lounge, or other similar facility, operated as an enterprise engaged in the business of selling foods to the public.

(2) PERISHABLE AGRICULTURAL COMMODITY; RETAILER.—The terms ''perishable agricultural commodity'' and ''retailer'' have the meanings given the terms in section 1(b) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499a(b)).

(b) NOTICE OF COUNTRY OF ORIGIN REQUIRED.—Except as provided in subsection (c), a retailer of a perishable agricultural commodity imported into the United States shall inform consumers, at the final point of sale of the perishable agricultural commodity to consumers, of the country of origin of the perishable agricultural commodity.

(c) EXEMPTION FOR FOOD SERVICE ESTABLISHMENTS.—Subsection (b) shall not apply to a perishable agricultural commodity imported into the United States to the extent that the perishable agricultural commodity is—

(1) prepared or served in a food service establishment; and

(2)(A) offered for sale or sold at the food service establishment in normal retail quantities; or

(B) served to consumers at the food service establishment.

(d) METHOD OF NOTIFICATION.—

(1) IN GENERAL.—The information required by subsection (b) may be provided to consumers by means of a label, stamp, mark, placard, or other clear and visible sign on the imported perishable agricultural commodity or on the package, display, holding unit, or bin containing the commodity at the final point of sale to consumers.

(2) LABELED COMMODITIES.—If the imported perishable agricultural commodity is already individually labeled regarding country of origin by the packer, importer, or another person, the retailer shall not be required to provide any additional information to comply with this section.

(e) VIOLATIONS.—If a retailer fails to indicate the country of origin of an imported perishable agricultural commodity as required by subsection (b), the Secretary of Agriculture may assess a civil penalty on the retailer in an amount not to exceed—

(1) $1,000 for the first day on which the violation occurs; and

(2) $250 for each day on which the same violation continues.

(f) DEPOSIT OF FUNDS.—Amounts collected under subsection (e) shall be deposited in the Treasury of the United States as miscellaneous receipts.

(g) APPLICATION OF SECTION.—This section shall apply with respect to a perishable agricultural commodity imported into the United States after the end of the 6-month period beginning on the date of the enactment of this Act.

BUMPERS (AND OTHERS) AMENDMENT NO. 3182

Mr. COCHRAN (for Mr. BUMPERS for himself, Mr. DASCHLE, Mr. LEAHY, Mrs. BOXER, Mr. DURBIN, and Mr. BYRD) proposed an amendment to the bill, S. 2159, supra; as follows:

FINDINGS.—

The President's budget submission includes unauthorized user fees;

It is unlikely these fees will be authorized in the immediate future;

The assumption of revenue from unauthorized user fees results in a shortfall of funds available for programs under the jurisdiction

of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Subcommittee;

That among the programs for which additional funds can be justified are:

Human Nutrition Research;

The Food Safety Initiative activities of the USDA and the FDA;

the Wetlands Reserve Program;

the Conservation Farm Option Program;

the Farmland Protection Program;

the Inspector General's Law Enforcement Initiative;

FDA pre-notification certification;

FDA clinical pharmacology;

FDA Office of Cosmetics and Color;

the Rural Electric loan programs;

the Pesticide Data Program;

the Rural Community Advancement Program;

civil rights activities; and

Fund Rural America.

Therefore, it is the sense of the Senate that, In the event an additional allocation becomes available, the above mentioned programs should be considered for funding.

FEINGOLD (AND JEFFORDS) AMENDMENT NO. 3183

Mr. COCHRAN (for Mr. FEINGOLD for himself and Mr. JEFFORDS) proposed an amendment to the bill, S. 2159, supra; as follows:

On page 67, after line 23, add the following:

SEC. ___. OFFICE OF THE SMALL FARMS ADVOCATE.

(a) DEFINITION OF SMALL FARM.—In this section, the term ''small farm'' has the meaning given the term in section 506 of the Rural Development Act of 1972 (7 U.S.C. 2666).

(b) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall establish and maintain in the Department of Agriculture an Office of the Small Farms Advocate.

(c) FUNCTIONS.—The Office of the Small Farms Advocate shall—

(1) cooperate with, and monitor, agencies and offices of the Department to ensure that the Department is meeting the needs of small farms;

(2) provide input to agencies and offices of the Department on program and policy decisions to ensure that the interests of small farms are represented; and

(3) develop and implement a plan to coordinate the effective delivery of services of the Department to small farms.

(d) ADMINISTRATOR.—

(1) APPOINTMENT.—The Office of the Small Farms Advocate shall be headed by an Administrator, who shall be appointed by the President, with the advice and consent of the Senate. Nothing in this Act shall be construed to authorize a net increase in the number of political appointments within the Department of Agriculture.

(2) DUTIES.—The Administrator shall—

(A) act as an advocate for small farms in connection with policies and programs of the Department; and

(B) carry out the functions of the Office of the Small Farms Advocate under subsection (b).

(3) EXECUTIVE SCHEDULE.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

''Administrator, Office of the Small Farms Advocate, Department of Agriculture.''.

(e) RESOURCES.—Using funds that are otherwise available to the Department of Agriculture, the Secretary shall provide the Office of the Small Farms Advocate with such human and capital resources as are sufficient for the Office to carry out its functions in a timely and efficient manner.

(f) ANNUAL REPORT.—The Secretary shall annually submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate an annual report that describes actions taken by the Office of the Small Farms Advocate to further the interests of small farms.

DORGAN AMENDMENT NO. 3184

Mr. COCHRAN (for Mr. DORGAN) proposed an amendment to the bill, S. 2159, supra; as follows:

On page 67, after line 23, add the following:

SEC. 7. LIMIT ON PENALTY FOR INADVERTENT VIOLATION OF CONTRACT UNDER THE AGRICULTURAL MARKET TRANSITION ACT.

If an owner or producer, in good faith, inadvertently plants edible beans during the 1998 crop year on acreage covered by a contract under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.), the Secretary of Agriculture shall minimize penalties imposed for the planting to prevent economic injury to the owner or producer.

CRAIG (AND OTHERS) AMENDMENT NO. 3185

Mr. COCHRAN (for Mr. CRAIG for himself, Mr. JOHNSON, Mr. GRAMS, and Mr. ROBERTS) proposed an amendment to the bill, S.2159, supra; as follows:

On page 67 after line 23 add the following section:

SEC. . 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Biodiesel Energy Development Act of 1998''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.
Sec. 3. Amendments to the Energy Policy and Conservation Act.
Sec. 4. Minimum Federal fleet requirement.
Sec. 5. State and local incentives programs.
Sec. 6. Alternative fuel bus program.
Sec. 7. Alternative fuel use in nonroad vehicles, engines, and marine vessels.
Sec. 8. Mandate for alternative fuel providers.
Sec. 9. Replacement fuel supply and demand program.
Sec. 10. Modification of goals; additional rulemaking authority.
Sec. 11. Fleet requirement program.
Sec. 12. Credits.
Sec. 13. Secretary's recommendation to Congress.

SEC. 2. DEFINITIONS.

Section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211) is amended—

(1) in paragraph (2), by striking ''derived from biological materials'' and inserting ''derived from domestically produced renewable biological materials (including biodiesel) at mixtures not less than 20 percent by volume'';

(2) in paragraph (8), by striking subparagraph (b) and inserting the following:

''(B) a motor vehicle (other than an automobile) or marine vessel that is capable of operating on alternative fuel, gasoline, or diesel fuel, or an approved blend of alternative fuel and petroleum-based fuel.'';

(3) by redesignating paragraphs (11) through (14) as paragraphs (12), (14), (15), and (16), respectively;

(4) by inserting after paragraph (10) the following:

''(11) the term 'heavy duty motor vehicle' means a motor vehicle or marine vessel that is greater than 8,500 pounds gross vehicle weight rating;'';

(5) by inserting after paragraph (12) (as redesignated by paragraph (3)) the following:

''(13) the term 'marine vessel' means a motorized watercraft or other artificial contrivance used as a means of transportation primarily on the navigable waters of the United States;'';

(6) in paragraph (15) (as redesignated by paragraph (3)), by striking ''biological materials (including biodiesel)''.

SEC. 3. AMENDMENTS TO THE ENERGY POLICY AND CONSERVATION ACT.

Section 400AA of the Energy Policy and Conservation Act (42 U.S.C. 6374) is amendment—

(1) in the second sentence of subsection (a)(3)(B), by striking ''vehicles converted to use alternative fuels may be acquired if, after conversion,'' and inserting ''existing fleet vehicles may be converted to use alternative fuels at the time of a major vehicle overhaul or rebuild, or vehicles that have been converted to use alternative fuels may be acquired, if''; and

(2) in subsection (g)—

(A) in paragraph (2), by striking ''derived from biological materials'' and inserting ''derived from domestically produced renewable biological materials (including biodiesel) at mixtures not less than 20 percent by volume'';

(B) in paragraph (5), by striking subparagraph (B) and inserting the following:

''(B) a motor vehicle (other than an automobile) or marine vessel that is capable of operating on alternative fuel, gasoline, or diesel fuel, or an approved blend of alternative fuel and petroleum-based fuel; and''; and

(C) in paragraph (6), by inserting ''or marine vessel'' after ''a vehicle''.

SEC. 4. MINIMUM FEDERAL FLEET REQUIREMENT.

Section 303 of the Energy Policy Act of 1992 (42 U.S.C. 13212) is amended—

(1) by redesignating subsections (c) through (f) as subsections (d) through (g), respectively; and

(2) by inserting after subsection (b) the following:

''(c) HEAVY DUTY AND DUAL-FUELED VEHICLE COMPLIANCE CREDITS.—

''(1) IN GENERAL.—For purposes of meeting the requirements of this section, the Secretary, in consultation with the Administrator of General Services, if appropriate, shall permit a Federal fleet to acquire 1 heavy duty alternative fueled vehicle in place of 2 light duty alternative fueled vehicles.

''(2) ADDITIONAL CREDITS.—For purposes of this section, the Secretary, in consultation with the Administrator of General Services, if appropriate, shall permit a Federal fleet to take an additional credit for the purchase and documented use of alternative fuel used in a dual-fueled vehicle, comparable conventionally-fueled motor vehicle, or marine vessel.

''(3) ACCOUNTING.—

''(A) IN GENERAL.—In allowing a credit for the purchase of a dual-fueled vehicle or alternative fuel, the Secretary may request a Federal agency to provide an accounting of the purchase.

''(B) GUIDELINES.—The Secretary shall include any request made under subparagraph (A) in the guidelines required under section 308.

''(4) FUEL AND VEHICLE NEUTRALITY.—The Secretary shall carry out this subsection in a manner that is, to the maximum extent practicable, neutral with respect to the type of fuel and vehicle used.''.

SEC. 5. STATE AND LOCAL INCENTIVES PROGRAMS.

(a) ESTABLISHMENT OF PROGRAM.—Section 409(a) of the Energy Policy Act of 1992 (42 U.S.C. 13235(a)) is amended—

(1) in paragraph (2)(A), by striking ''alternative fueled vehicles'' and inserting ''light and heavy duty alternative fueled vehicles and increasing the use of alternative fuels''; and

(2) in paragraph (3)—

(A) in subparagraph (B), by inserting after ''introduction of'' the following: ''converted or acquired light and heavy duty'';

(B) in subparagraph (E), by inserting after ''of sales of'' the following: '', incentives toward use of, and reporting requirements relating to''; and

(C) in subparagraph (G)—

(i) by redesignating clauses (i) through (iii) as clauses (ii) through (iv), respectively; and

(ii) by inserting after ''cost of—'' the following:

''(I) alternative fuels;''.

(b) FEDERAL ASSISTANCE TO STATES.—Section 409(b) of the Energy Policy Act of 1992 (42 U.S.C. 13235(b)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by striking ''and'' at the end;

(B) in subparagraph (C), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(D) grants of Federal financial assistance for the incremental purchase cost of alternative fuels.'';

(2) in paragraph (2)(B), by inserting after ''be introduced'' the following: ''and the volume of alternative fuel likely to be consumed''; and

(3) in paragraph (3)—

(A) by inserting ''alternative fuels and'' after ''in procuring''; and

(B) by inserting ''fuels and'' after ''of such''.

(c) GENERAL PROVISIONS.—Section 409(c)(2)(A) of the Energy Policy Act of 1992 (42 U.S.C. 13235(c)(2)(A)) is amended by inserting after ''alternative fueled vehicles in use'' the following: ''and volume of alternative fuel consumed''.

SEC. 6. ALTERNATIVE FUEL BUS PROGRAM.

Section 410(c) of the Energy Policy Act of 1992 (42 U.S.C. 13236(c)) is amended in the second sentence by striking ''and the conversion of school buses to dedicated vehicles'' and inserting ''the incremental cost of alternative fuels used in flexible fueled school buses, and the conversion of school buses to alternative fueled vehicles''.

SEC. 7. ALTERNATIVE FUEL USE IN NONROAD VEHICLES, ENGINES, AND MARINE VESSELS.

Section 412 of the Energy Policy Act of 1992 (42 U.S.C. 13238) is amended—

(1) in this section heading, by striking ''and engines'' and inserting '', engines, and marine vessels'';

(2) by striking ''vehicles and engines'' each place it appears in subsection (a) and (b) and inserting ''vehicles, engines, and marine vessels'';

(3) in subsections (a)—

(A) in the subsection heading, by striking ''NONROAD VEHICLES, AND ENGINES'' and inserting ''IN GENERAL'';

(B) in paragraph (1)—

(i) in the first sentence, by striking ''a study'' and inserting ''studies''; and

(ii) in the second sentence—

(I) by striking ''study'' and inserting ''studies''; and

(II) by striking ''2 years'' and insert ''2, 6, and 10 years'';

(C) in paragraph (2)—

(i) by striking ''study'' each place it appears and inserting ''studies''; and

(ii) in the second sentence, by inserting ''or marine vessels'' after ''such vehicles''; and

(D) in paragraph (3)—

(i) by striking ''report'' and inserting ''reports''; and

(ii) by striking ''may'' and inserting ''shall''; and

(4) in subsection (b)—

(A) in this subsection heading, by striking ''AND ENGINES'' and inserting '', ENGINES, AND MARINE VESSELS''; and

(B) by striking ''rail transportation, vehicles used at airports, vehicles or engines used for marine purposes, and other vehicles or engines'' and inserting ''rail and waterway transportation, vehicles used at airports and seaports, vehicles or engines used for marine purposes, marine vessels, and other vehicles, engines, or marine vessels''.

SEC. 8. MANDATE FOR ALTERNATIVE FUEL PROVIDERS.

Section 501 of the Energy Policy Act of 1992 (42 U.S.C. 13251) is amended—

(1) in subsection (a)(1), by inserting ''or heavy'' after ''new light'' and

(2) in subsection (b)—

(A) in paragraph (1), by striking ''and'' at the end;

(B) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(3) allow the conversion of an existing fleet vehicle into a dual-fueled alternative fueled vehicle at the time of a major overhaul or rebuild of the vehicle, if the original equipment manufacturer's warranty continues to apply to the vehicle, pursuant to an agreement between the original equipment manufacturer and the person performing the conversion.''.

SEC. 9. REPLACEMENT FUEL SUPPLY AND DEMAND PROGRAM.

Section 502 of the Energy Policy Act of 1992 (42 U.S.C. 13252) is amended—

(1) in the first sentence of subsection (a), by inserting ''and heavy'' after ''in light''; and

(2) in the first sentence of subsection (b), by inserting after ''October 1, 1993,'' the following: ''and every 5 years thereafter through October 1, 2008,''.

SEC. 10. MODIFICATION OF GOALS; ADDITIONAL RULEMAKING AUTHORITY.

Section 504 of the Energy Policy Act of 1992 (42 U.S.C. 13254) is amended—

(1) in the first sentence of subsection (a), by striking ''and periodically thereafter'' and inserting ''consistent with the reporting requirements of section 502(b)''; and

(2) in subsection (c), by inserting after the first sentence the following: ''Any additional regulation issued by the Secretary shall be, to the maximum extent practicable, neutral with respect to the type of fuel and vehicle used.''.

SEC. 11. FLEET REQUIREMENT PROGRAM.

(a) FLEET PROGRAM PURCHASE GOALS.—Section 507(a)(1) of the Energy Policy Act of 1992 (42 U.S.C. 13257(a)(1)) is amended by inserting ''acquired as, or converted into,'' after ''shall be''.

(b) FLEET REQUIREMENT PROGRAM.—Section 507(g) of the Energy Policy Act of 1992 (42 U.S.C. 13257(g)) is amended—

(1) in paragraph (1), by inserting, ''acquired as, or converted into,'' after ''shall be'';

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following:

''(4) SUBSTITUTIONS.—The Secretary shall, by rule, permit fleets covered under this section to substitute the acquisition or conversion of 1 heavy duty alternative fueled vehicle for 2 light duty vehicle acquisitions to meet the requirements of this subsection.''.

(c) CONVERSIONS.—Section 507(j) of the Energy Policy Act of 1992 (42 U.S.C. 13257(j)) is amended—

(1) by striking ''Nothing in'' and inserting the following:

''(1) IN GENERAL.—Subject to paragraph (2) nothing in''; and

(2) by adding at the end the following:

''(2) CONVERSION INTO ALTERNATIVE FUELED VEHICLES.—

''(A) IN GENERAL.—A fleet owner shall be permitted to convert an existing fleet vehicle into an alternative fueled vehicle, and purchase the alternative fuel for the converted vehicle, for the purpose of compliance with this title or an amendment made by this title, if the original equipment manufacturer's warranty continues to apply to the vehicle, pursuant to an agreement between the original equipment manufacturer and the person performing the conversion.

''(B) CREDITS.—A fleet owner shall be allowed a credit for the conversion of an existing fleet vehicle and the purchase of alternative fuel for the vehicles.''.

(d) MANDATORY STATE FLEET PROGRAMS.—Section 507(o) of the Energy Policy Act of 1992 (42 U.S.C. 13257(o)) is amended—

(1) in paragraph (1)—

(A) by inserting ''or heavy'' after ''new light''; and

(B) by inserting ''or converted'' after ''acquired''; and

(2) in the first sentence of paragraph (2)(A)—

(A) by striking ''this Act'' and inserting ''the Biodiesel Energy Development Act of 1997''; and

(B) by inserting after ''of light'' the following ''or heavy duty alternative fueled''.

SEC. 12. CREDITS.

(a) IN GENERAL.—Section 508(a) of the Energy Policy Act of 1992 (42 U.S.C. 13258(a)) is amended—

(1) by striking ''The Secretary'' and inserting the following:

''(1) ADDITIONAL ALTERNATIVE FUELED VEHICLES.—The Secretary''; and

(2) by adding at the end the following:

''(2) ALTERNATIVE FUEL.—The Secretary shall allocate a credit to a fleet or covered person that acquires a volume of alternative fuel equal to the estimated need for 1 year for any dual-fueled vehicle acquired or converted by the fleet or covered person as required under this title.''.

(b) ALLOCATION.—Section 508(b) of the Energy Policy Act of 1992 (42 U.S.C. 13258(b)) is amended—

(1) by striking ''In allocating credits under subsection (a),'' and inserting the following:

''(1) ADDITIONAL ALTERNATIVE FUELED VEHICLES.—In allocating credits under subsection (a)(1),''; and

(2) by adding at the end the following:

''(2) DUEL-FUELED VEHICLES; ALTERNATIVE FUEL.—In allocating credits under subsection (a)(2), the Secretary shall allocate 2 credits to a fleet or covered person for acquiring or converting a dual-fueled vehicle and acquiring a volume of alternative fuel equal to the estimated need for 1 year for any dual-fueled vehicle if the dual-fueled vehicle acquired is in excess of the number that the fleet or covered person is required to acquire or is acquired before the date that the fleet or covered person is required to acquire the number under this title.''.

SEC. 13. SECRETARY'S RECOMMENDATION TO CONGRESS.

Section 509(a) of the Energy Policy Act of 1992 (42 U.S.C. 13259(a)) is amended—

(1) in paragraph (1), by inserting before the semicolon at the end the following: ''and exempting replacement fuels from taxes levied on non-replacement fuels''; and

(2) in paragraph (2)—

(A) by inserting ''and converters'' after ''suppliers''; and

(B) by inserting before the semicolon the following: '', including the conversion and

warranty of motor vehicles into alternative fueled vehicles''.

BUMPERS AMENDMENT NO. 3186

Mr. COCHRAN (for Mr. BUMPERS) proposed an amendment to the bill, S. 2159, supra; as follows:

At the appropriate place insert the following:

SEC. . The Secretary of Agriculture shall present to Congress by March 1, 1999, a report on whether to recommend lifting the ban on the interstate-distribution of state inspected meat.

HATCH AMENDMENT NO. 3187

Mr. COCHRAN (for Mr. HATCH) proposed an amendment to the bill, S. 2159, supra; as follows:

At the appropriate place insert the following:

The Secretary of Agriculture shall present to Congress a report on whether to recommend by March 1, 1999, lifting the ban on the interstate-distribution of state inspected meat.

COVERDELL (AND CLELAND) AMENDMENTS NOS. 3188–3190

Mr. COCHRAN (for Mr. COVERDELL for himself and Mr. CLELAND) proposed three amendments to the bill, S. 2159, supra; as follows:

AMENDMENT NO. 3188

On page 67, after line 23, add the following:

SEC. ___. PROHIBITION ON LOAN GUARANTEES TO BORROWERS THAT HAVE RECEIVED DEBT FORGIVENESS.

Section 373 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008h) is amended by striking subsection (b) and inserting the following:

''(b) PROHIBITION OF LOANS FOR BORROWERS THAT HAVE RECEIVED DEBT FORGIVENESS.—

''(1) PROHIBITIONS.—Except as provided in paragraph (2)—

''(A) the Secretary may not make a loan under this title to a borrower that has received debt forgiveness on a loan made or guaranteed under this title; and

''(B) the Secretary may not guarantee a loan under this title to a borrower that has received—

''(i) debt forgiveness after April 4, 1996, on a loan made or guaranteed under this title; or

''(ii) received debt forgiveness on no more than 3 occasions on or before April 4, 1996.

''(2) EXCEPTIONS.—

''(A) IN GENERAL.—The Secretary may make a direct or guaranteed farm operating loan for paying annual farm or ranch operating expenses of a borrower that was restructured with a write-down under section 353.

''(B) EMERGENCY LOANS.—The Secretary may make an emergency loan under section 321 to a borrower that—

''(i) on or before April 4, 1996, received not more than 1 debt forgiveness on a loan made or guaranteed under this title; and

''(ii) after April 4, 1996, has not received debt forgiveness on a loan made or guaranteed under this title.''.

AMENDMENT NO. 3189

On page 67, after line 23, add the following:

SEC. ___. DEFINITION OF FAMILY FARM.

(a) REAL ESTATE LOANS.—Section 302 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1922) is amended by adding at the end the following:

''(c) DETERMINATION OF QUALIFICATION FOR LOAN.—

''(1) PRIMARY FACTOR.—The primary factor to be considered in determining whether an applicant for a loan under this subtitle is engaged primarily and directly in farming or ranching shall be whether the applicant is participating in routine, ongoing farm activities and in overall decisionmaking with regard to the farm or ranch.

''(2) NO BASIS FOR DENIAL OF LOAN.—The Secretary may not deny a loan under this subtitle solely because 2 or more individuals are employed full-time in the farming operation for which the loan is sought.''.

(b) OPERATING LOANS.—Section 311 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1941) is amended by adding at the end the following:

''(d) DETERMINATION OF QUALIFICATION FOR LOAN.—

''(1) PRIMARY FACTOR.—The primary factor to be considered in determining whether an applicant for a loan under this subtitle is engaged primarily and directly in farming or ranching shall be whether the applicant is participating in routine, ongoing farm activities and in overall decisionmaking with regard to the farm or ranch.

''(2) NO BASIS FOR DENIAL OF LOAN.—The Secretary may not deny a loan under this subtitle solely because 2 or more individuals are employed full-time in the farming operation for which the loan is sought.''.

(c) EMERGENCY LOANS.—Section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961) is amended by adding at the end the following:

''(e) DETERMINATION OF QUALIFICATION FOR LOAN.—

''(1) PRIMARY FACTOR.—The primary factor to be considered in determining whether an applicant for a loan under this subtitle is engaged primarily and directly in farming or ranching shall be whether the applicant is participating in routine, ongoing farm activities and in overall decisionmaking with regard to the farm or ranch.

''(2) NO BASIS FOR DENIAL OF LOAN.—The Secretary may not deny a loan under this subtitle solely because 2 or more individuals are employed full-time in the farming operation for which the loan is sought.''.

(d) EFFECTIVE DATE.—This amendment shall be considered to have been in effect as of January 1, 1977.

AMENDMENT NO. 3190

On page 67, after line 23, add the following:

SEC. ___. APPLICABILITY OF DISASTER LOAN COLLATERAL REQUIREMENTS UNDER THE SMALL BUSINESS ACT.

Section 324(d) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1964(d)) is amended—

(1) by striking ''(d) All loans'' and inserting the following:

''(d) REPAYMENT.—

''(1) IN GENERAL.— All loans''; and

(2) by adding at the end the following:

''(2) NO BASIS FOR DENIAL OF LOAN.—

''(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall not deny a loan under this subtitle to a borrower by reason of the fact that the borrower lacks a particular amount of collateral for the loan if the Secretary is reasonably certain that the borrower will be able to repay the loan.

''(B) REFUSAL TO PLEDGE AVAILABLE COLLATERAL.—The Secretary may deny or cancel a loan under this subtitle if a borrower refuses to pledge available collateral on request by the Secretary.''.

HARKIN AMENDMENT NO. 3191

Mr. COCHRAN (for Mr. HARKIN) proposed an amendment to the bill, S. 2159, supra; as follows:

On page 46, line 24, before the period, insert the following: '': *Provided further,* That none of the funds under this heading shall be available unless the value of bonus commodities provided under section 32 of the Act of August 24, 1935 (49 Stat. 774, chapter 641; 7 U.S.C. 612c), and section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431) is included in meeting the minimum commodity assistance requirement of section 6(g) of the National School Lunch Act (42 U.S.C. 1755(g))''.

On page 47, line 6, strike ''$3,924,000,000'' and insert ''$3,948,000,000''.

DODD AMENDMENT NO. 3192

Mr. COCHRAN (for Mr. DODD) proposed an amendment to amendment No. 3176 proposed by him to the bill, S. 2159, supra; as follows:

In the amendment strike all after the first word and insert the following:

. NOTIFICATION OF RECALLS OF DRUGS AND DEVICES.

(a) DRUGS.—Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) is amended by adding at the end the following:

''(o)(1) If the Secretary withdraws an application for a drug under paragraph (1) or (2) of the first sentence of subsection (e) and a class I recall for the drug results, the Secretary shall take such action as the Secretary may determine to be appropriate to ensure timely notification of the recall to individuals that received the drug, including using the assistance of health professionals that prescribed or dispensed the drug to such individuals.

''(2) In this subsection:

''(A) The term 'Class I' refers to the corresponding designation given recalls in subpart A of part 7 of title 21, Code of Federal Regulations, or a successor regulation.

''(B) The term 'recall' means a recall, as defined in subpart A of part 7 of title 21, Code of Federal Regulations, or a successor regulation, of a drug.''.

(b) DEVICES.—Section 518(e) of such Act (21 U.S.C. 360h(e)) is amended—

(1) in the last sentence of paragraph (2), by inserting ''or if the recall is a class I recall,'' after ''cannot be identified''; and

(2) by adding at the end the following:

''(4) In this subsection, the term 'Class I' refers to the corresponding designation given recalls in subpart A of part 7 of title 21, Code of Federal Regulations, or a successor regulation.''.

(c) CONFORMING AMENDMENT.—Section 705(b) of such Act (21 U.S.C. 375(b)) is amended—

(1) by striking ''or gross'' and inserting ''gross''; and

(2) by striking the period and inserting '', or a class I recall of a drug or device as described in section 505(o)(1) or 518(e)(2).''.

This section shall take effect one day after date of this bill's enactment.

HARKIN (AND OTHERS) AMENDMENT NO. 3193

Mr. COCHRAN (for Mr. HARKIN for himself, Mr. REED, Mr. LAUTENBERG, Mr. KENNEDY, Mrs. MURRAY, and Mr. JOHNSON) propoosed an amendment to the bill, S. 2159, supra; as follows:

At the appropriate place, insert the following:

SEC. ___. TEEN ANTI-TOBACCO ACTIVITIES.

(a) INCREASE IN FUNDS.—The amount described for salaries and expenses of the Food and Drug Administration under title VI shall be increased from $1,072,640,000 to $1,172,640,000.

(b) USER FEE.—The Secretary of Health and Human Services (referred to in this section as the ''Secretary'') shall, not later than

60 days after the date of enactment of this Act, and annually thereafter assess and collect from each manufacturer of tobacco products a user fee for the conduct of teen anti-tobacco activities by the Food and Drug Administration.

(c) AMOUNT.—With respect to each year, the user fee assessed to a manufacturer under subsection (b) shall be equal to an amount that bears the same ratio to $150,000,000 as the tobacco product market share of the manufacturer bears to the tobacco market share of all tobacco product manufacturers for the year preceding the year in which the determination is being made.

(d) DEPOSITS.—Amount collected under subsection (b) shall be deposited into the general fund of the Treasury.

(e) APPROPRIATION.—There are authorized to be appropriated in each fiscal year, and there are appropriated, an amount equal to the amount deposited into the Treasury under subsection (d) for that fiscal year, to be used by the Food and Drug Administration to carry out teen anti-tobacco activities under the Federal Food, Drug and Cosmetic Act.

(f) NO REQUIREMENT FOR PAYMENT.—The Secretary shall not require that a manufacturer pay a user fee under this section for any tobacco product for any fiscal year if the Secretary determines that the tobacco product involved as manufactured by the manufacturer is used by less than 0.5 percent of the total number of individuals determined to have used any tobacco product as manufactured by all manufacturers for the year involved.

(g) FINAL DETERMINATION.—The determination of the Secretary as to the amount and allocation of an assessment under subsection (b) shall be final and the manufacturer shall pay such assessment within 30 days of the date on which the manufacturer is assessed. Such payment shall be retained by the Secretary pending final judicial review.

(h) JUDICIAL REVIEW.—The amount of any user fee paid under subsection (b) shall be subject to judicial review by the United States Court of Appeals for the District of Columbia Circuit, based on the arbitrary and capricious standard of section 706(2)(A) of title 5, United States Code. Notwithstanding any other provision of law, no court shall have the authority to stay any payment due to the Secretary under subsection (b) pending judicial review.

BAUCUS AMENDMENT NO. 3194

Mr. COCHRAN (for Mr. BAUCUS) proposed an amendment to the bill, S. 2159, supra; as follows:

On page 13, line 11, strike ''$50,500,000'' and insert ''$51,400,000''.

On page 14, line 17, strike ''$432,082,000'' and insert ''$432,982,000''.

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1999

BOND (AND OTHERS) AMENDMENT NO. 3195

Mr. BOND (for himself, Mr. CLELAND, Ms. MIKULSKI, and Mr. COVERDELL) proposed an amendment to the bill (S. 2168) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1999, and for other purposes, as follows:

On page 7, line 18, add the following new provisos prior to the period: '': *Provided further,* That the funds made available under this heading, $14,000,000 shall be for the homeless grant program and $6,000,000 shall be for the homeless per diem program: *Provided further,* That such funds may be used for vocational training, rehabilitation, and outreach activities in addition to other authorized homeless assistance activities''.

MCCAIN AMENDMENT NO. 3196

Mr. BOND (for Mr. MCCAIN) proposed an amendment to the bill, S. 2168, supra; as follows:

On page 93, between lines 18 and 19, insert the following:

SEC. 423. (a) Each entity that receives a grant from the Federal Government for purposes of providing emergency shelter for homeless individuals shall—

(1) ascertain, to the extent practicable, whether or not each adult individual seeking such shelter from such entity is a veteran; and

(2) provide each such individual who is a veteran such counseling relating to the availability of veterans benefits (including employment assistance, health care benefits, and other benefits) as the Secretary of Veterans Affairs considers appropriate.

(b) The Secretary of Veterans Affairs and the Secretary of Housing and Urban Development shall jointly coordinate the activities required by subsection (a).

(c) Entities referred to in subsection (a) shall notify the Secretary of Veterans Affairs of the number and identity of veterans ascertained under paragraph (1) of that subsection. Such entities shall make such notification with such frequency and in such form as the Secretary shall specify.

(d) Notwithstanding any other provision of law, an entity referred to subsection (a) that fails to meet the requirements specified in that subsection shall not be eligible for additional grants or other Federal funds for purposes of carrying out activities relating to emergency shelter for homeless individuals.

BOND (AND OTHERS) AMENDMENT NO. 3197

Mr. BOND (for himself, Mr. ROCKEFELLER, and Ms. MIKULSKI) proposed an amendment to the bill, S. 2168, supra; as follows:

On page 7, line 18, add the following new provisos prior to the period: '': *Provided further,* That of the funds made available under this heading, $10,000,000 shall be for implementation of the Primary Care Providers Incentive Act, contingent upon enactment of authorizing legislation''.

SARBANES (AND MIKULSKI) AMENDMENT NO. 3198

Mr. BOND (for Mr. SARBANES for himself and Ms. MIKULSKI) proposed an amendment to the bill, S. 2168, supra; as follows:

At the appropriate place, insert the following:

SEC. ___. NATIONAL FALLEN FIREFIGHTERS FOUNDATION.

(a) ESTABLISHMENT AND PURPOSES.—Section 202 of the National Fallen Firefighters Foundation Act (36 U.S.C. 5201) is amended—

(1) by striking paragraph (1) and inserting the following:

''(1) primarily—

''(A) to encourage, accept, and administer private gifts of property for the benefit of the National Fallen Firefighters' Memorial and the annual memorial service associated with the memorial; and

''(B) to, in coordination with the Federal Government and fire services (as that term is defined in section 4 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2203)), plan, direct, and manage the memorial service referred to in subparagraph (A)'';

(2) in paragraph (2), by inserting ''and Federal'' after ''non-Federal'';

(3) in paragraph (3)—

(A) by striking ''State and local'' and inserting ''Federal, State, and local''; and

(B) by striking ''and'' at the end;

(4) in paragraph (4), by striking the period at the end and inserting a semicolon; and

(5) by adding at the end the following:

''(5) to provide for a national program to assist families of fallen firefighters and fire departments in dealing with line-of-duty deaths of those firefighters; and

''(6) to promote national, State, and local initiatives to increase public awareness of fire and life safety in coordination with the United States Fire Administration.''

(b) BOARD OF DIRECTORS OF FOUNDATION.—Section 203(g)(1) of the National Fallen Firefighters Foundation Act (36 U.S.C. 5202(g)(1)) is amended by striking subparagraph (A) and inserting the following:

''(A) appointing officers or employees;''.

(c) ADMINISTRATIVE SERVICES AND SUPPORT.—Section 205 of the National Fallen Firefighters Foundation Act (36 U.S.C. 5204) is amended to read as follows:

''SEC. 205. ADMINISTRATIVE SERVICES AND SUPPORT.

''(a) IN GENERAL.—During the 10-year period beginning on the date of enactment of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999, the Administrator may—

''(1) provide personnel, facilities, and other required services for the operation of the Foundation; and

''(2) request and accept reimbursement for the assistance provided under paragraph (1).

''(b) REIMBURSEMENT.—Any amounts received under subsection (a)(2) as reimbursement for assistance shall be deposited in the Treasury to the credit of the appropriations then current and chargeable for the cost of providing that assistance.

''(c) PROHIBITION.—Notwithstanding any other provision of law, no Federal personnel or stationery may be used to solicit funding for the Foundation.''.

WELLSTONE (AND OTHERS) AMENDMENT NO. 3199

Mr. BOND (for Mr. WELLSTONE for himself, Mrs. MURRAY, Mr. MCCAIN, and Mr. KERRY) proposed an amendment to the bill, S. 2168, supra; as follows:

On page 16, between lines 19 and 20, insert the following:

SEC. 110. (a)(1) Section 1103 of title 38, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 11 of such title is amended by striking the item relating to section 1103.

(b) Upon the enactment of this Act—

(1) the Director of the Office of Management and Budget shall not make any estimate of changes in direct spending outlays under section 252(d) of the Balanced Budget and Emergency Deficit Control Act of 1985 for any fiscal year resulting from the enactment of this section; and

(2) the Chairmen of the Committees on the Budget shall not make any adjustments in direct spending outlays for purposes of the allocations, functional levels, and aggregates under title III of the Congressional Budget Act of 1974 for any fiscal year resulting from the enactment of this section.

MURKOWSKI AMENDMENT NO. 3200

Mr. MURKOWSKI proposed an amendment to the bill, S. 2168, supra; as follows:

SEC. . VIETNAM VETERANS ALLOTMENT.

The Alaskan Native Claims Settlement Act (43 U.S.C. 1600, et seq.) is amended by adding at the end the following:

OPEN SEASON FOR CERTAIN NATIVE ALASKAN VETERANS FOR ALLOTMENTS

SEC. 41. (a) IN GENERAL.—(1) During the eighteen month period following promulgation of implementing rules pursuant to paragraph (6), a person described in subsection (b) shall be eligible for an allotment of not more than 160 acres of land under the Act of May 17, 1906 (chapter 2469; 34 Stat. 197), as such Act was in effect before December 18, 1971.

(2) Allotments selected under this section shall not be from existing native or non-native campsites, except for campsites used primarily by the person selecting the allotment.

(3) Only federal lands shall be eligible for selection and conveyance under this Act.

(4) All conveyances shall be subject to valid existing rights, including any right of the United States to income derived, directly or indirectly, from a lease, license, permit, right-of-way or easement.

(5) All state selected lands that have not yet been conveyed shall be ineligible for selection under this section.

(6) No later than 18 months after enactment of this section, the Secretary of the Interior shall promulgate, after consultation with Alaska Natives groups, rules to carry out this section.

(7) The Secretary of the Interior may covey alternative federal lands, including lands within a Conservation System Unit, to a person entitled to an allotment located within a Conservation System Unit if—

(A) the Secretary determines that the allotment would be incompatible with the purposes for which the Conservation System Unit was established;

(B) the person entitled to the allotment agrees in writing to the alternative conveyance; and

(C) the alternative lands are of equal acreage to the allotment.

(b) ELIGIBLE INDIVIDUALS.—(1) A person is eligible under subsection (a) if that person would have been eligible under the Act of May 17, 1906 (chapter 2469; 34 Stat. 197), as that Act was in effect before December 18, 1971, and that person is a veteran who served during the period between January 1, 1968 and December 31, 1971.

(c) STUDY.—The Secretary of the Interior shall—

(1) conduct a study to identify and assess the circumstances of veterans of the Vietnam era who were eligible for allotments under the Act of May 17, 1906 but who did not apply under that Act and are not eligible under this section; and

(2) within one year of enactment of this section, issue a written report with recommendations to the Committee on Appropriations and the Committee on Energy and Natural Resources in the Senate and the Committee on Appropriations and the Committee on Resources in the House of Representatives.

(d) DEFINITIONS.—For the purposes of this section, the terms ''veteran'' and ''Vietnam era'' have the meanings given those terms by paragraphs (2) and (29) respectively, of section 101 of title 38, United States Code.

FEINGOLD AMENDMENT NO. 3201

Mr. FEINGOLD proposed an amendment to the bill, S. 2168, supra; as follows:

On page 93, between lines 18 and 19, insert the following:

SEC.___. CLASS SIZE DEMONSTRATION GRANTS.

Subpart 3 of part D of title V of the Higher Education Act of 1965 (20 U.S.C. 1109 et seq.) is amended to read as follows:

''Subpart 3—Class Size Demonstration Grants

''SEC. 561. PURPOSE.

''It is the purpose of this subpart to provide grants to State educational agencies to enable such agencies to determine the benefits, in various school settings, of reducing class size on the educational performance of students and on classroom management and organization.

''SEC. 562. PROGRAM AUTHORIZED.

''(a) PROGRAM AUTHORIZED.—

''(1) IN GENERAL.—The Secretary shall award grants, on a competitive basis, to State educational agencies to pay the Federal share of the costs of conducting demonstration projects that demonstrate methods of reducing class size that may provide information meaningful to other State educational agencies and local educational agencies.

''(2) FEDERAL SHARE.—The Federal share shall be 50 percent.

''(b) RESERVATION.—The Secretary may reserve not more than 5 percent of the amount appropriated under section 565A for each fiscal year to carry out the activities described in section 565.

''(c) SELECTION CRITERIA.—The Secretary shall make grants to State educational agencies on the basis of—

''(1) the need and the ability of a State educational agency to reduce the class size of an elementary school or secondary school served by such agency;

''(2) the ability of a State educational agency to furnish the non-Federal share of the costs of the demonstration project for which assistance is sought;

''(3) the ability of a State educational agency to continue the project for which assistance is sought after the termination of Federal financial assistance under this subpart; and

''(4) the degree to which a State educational agency demonstrates in the application submitted pursuant to section 564 consultation in program implementation and design with parents, teachers, school administrators, and local teacher organizations, where applicable.

''(d) PRIORITY.—In awarding grants under this subpart, the Secretary shall give priority to demonstration projects that involve at-risk students in the earliest grades, including educationally or economically disadvantaged students, students with disabilities, and limited English proficient students.

''(e) GRANTS MUST SUPPLEMENT OTHER FUNDS.—A State educational agency shall use the Federal funds received under this subpart to supplement and not supplant other Federal, State, and local funds available to the State educational agency to carry out the purpose of this subpart.

''SEC. 563. PROGRAM REQUIREMENTS.

''(a) ANNUAL COMPETITION.—In each fiscal year, the Secretary shall announce the factors to be examined in a demonstration project assisted under this subpart. Such factors may include—

''(1) the magnitude of the reduction in class size to be achieved;

''(2) the level of education in which the demonstration projects shall occur;

''(3) the form of the instructional strategy to be demonstrated; and

''(4) the duration of the project.

''(b) RANDOM TECHNIQUES AND APPROPRIATE COMPARISON GROUPS.—Demonstration projects assisted under this subpart shall be designed to utilize randomized techniques or appropriate comparison groups.

''SEC. 564. APPLICATION.

''(a) IN GENERAL.—In order to receive a grant under this subpart, a State educational agency shall submit an application to the Secretary that is responsive to the announcement described in section 563(a), at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

''(b) DURATION.—The Secretary shall encourage State educational agencies to submit applications under this subpart for a period of 5 years.

''(c) CONTENTS.—Each application submitted under subsection (a) shall include—

''(1) a description of the objectives to be attained with the grant funds and the manner in which the grant funds will be used to reduce class size;

''(2) a description of the steps to be taken to achieve target class sizes, including, where applicable, the acquisition of additional teaching personnel and classroom space;

''(3) a statement of the methods for the collection of data necessary for the evaluation of the impact of class size reduction programs on student achievement;

''(4) an assurance that the State educational agency will pay, from non-Federal sources, the non-Federal share of the costs of the demonstration project for which assistance is sought; and

''(5) such additional assurances as the Secretary may reasonably require.

''(d) SUFFICIENT SIZE AND SCOPE REQUIRED.—The Secretary shall award grants under this subpart only to State educational agencies submitting applications which described projects of sufficient size and scope to contribute to carrying out the purpose of this subpart.

''SEC. 565. EVALUATION AND DISSEMINATION.

''(a) NATIONAL EVALUATION.—The Secretary shall conduct a national evaluation of the demonstration projects assisted under this subpart to determine the costs incurred in achieving the reduction in class size and the effects of the reductions on results, such as student performance in the affected subjects or grades, attendance, discipline, classroom organization, management, and teacher satisfaction and retention.

''(b) COOPERATION.—Each State educational agency receiving a grant under this subpart shall cooperate in the national evaluation described in subsection (a) and shall provide such information to the Secretary as the Secretary may reasonably require.

''(c) REPORTS.—The Secretary shall report to Congress on the results of the evaluation conducted under subsection (a).

''(d) DISSEMINATION.—The Secretary shall widely disseminate information about the results of the class size demonstration projects assisted under this subpart.

''SEC. 565A. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this subpart $15,000,000 for fiscal

year 1999 and each of the 4 succeeding fiscal years.''.

SEC. ___. PROHIBITION REGARDING RESEARCH AND DEVELOPMENT BY NASA RELATING TO SUPERSONIC OR SUBSONIC AIRCRAFT.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Administrator of the National Aeronautics and Space Administration may not carry out research and development activities relating to supersonic aircraft or subsonic aircraft.

(b) DEFICIT REDUCTION.—Upon the date of enactment of this Act, savings resulting from amounts reduced pursuant to the application of subsection (a) shall be subject to the following provisions:

(1) BUDGET AUTHORITY AND SPENDING LIMITS.—The Office of Management and Budget shall—

(A) reflect the reduction in discretionary budget authority that results from the application of subsection (a) in the estimates required by section 251(a)(7) of the Balanced Budget and Emergency Deficit Control Act of 1985 in accordance with that Act, including an estimate of the reduction of the budget authority for each outyear; and

(B) include a reduction to the discretionary spending limits for budget authority and outlays in accordance with the Balanced Budget and Emergency Deficit Control Act of 1985 for each applicable fiscal year set forth in section 251(c) of that Act by amounts equal to the amounts for each fiscal year estimated pursuant to subparagraph (A).

(2) ADJUSTMENTS TO SPENDING LIMITS.—The Office of Management and Budget shall make the reduction required by paragraph (1)(B) as part of the next sequester report required by section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985.

(3) CBO ESTIMATES.—As soon as practicable after the date of enactment of this Act, the Director of the Congressional Budget Office shall provide to the Committee on the Budget of the House of Representatives and the Committee on the Budget of the Senate an estimate of the reduction of the budget authority and the reduction in outlays flowing from such reduction of budget authority for each outyear.

On page 78, line 24, strike ''$1,305,000,000'' and insert ''$866,000,000''.

NICKLES (AND OTHERS) AMENDMENT NO. 3202

Mr. NICKLES (for himself, Mr. KOHL, Mr. MACK, Mr. ALLARD, Mr. FEINGOLD, Mr. DEWINE, and Mr. FAIRCLOTH) proposed an amendment to the bill, S. 2168, supra; as follows:

On page 53, strike lines 9 through 25 and insert the following:

SEC. 219. INCREASE IN FHA SINGLE FAMILY MAXIMUM MORTGAGE AMOUNTS AND GNMA GUARANTY FEE.

(a) FHA SINGLE FAMILY MAXIMUM MORTGAGE AMOUNTS.—Section 203(b)(2)(A) of the National Housing Act (12 U.S.C. 1709(b)(2)(A)) is amended by striking ''38 percent'' and inserting ''48 percent''.

(b) GNMA GUARANTY FEE.—Section 306(g)(3)(A) of the National Housing Act (12 U.S.C. 1721(g)(3)(A)) is amended by striking ''No Fee or charge'' and all that follows through ''or collected'' and inserting ''A fee or charge in an amount equal to not less than 12 basis points shall be assessed and collected''.

REED (AND OTHERS) AMENDMENT NO. 3203

Mr. REED (for himself, Mr. ABRAHAM, Mr. CHAFEE, Mr. LEAHY, Mr. WELLSTONE, Ms. MIKULSKI) proposed an amendment to the bill, S. 2168, supra; as follows:

On page 33, line 17, strike ''$60,000,000'' and insert ''$70,000,000''.

On page 33, line 21, insert ''*Provided:* That none of these funds shall be available for the Healthy Homes Initiative'' before the period.

KERRY (AND HAGEL) AMENDMENT NO. 3204

Mr. KERREY (for himself and Mr. HAGEL) proposed an amendment to the bill, S. 2168, supra; as follows:

On page 93, between lines 18 and 19, insert the following:

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

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

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

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

(B) is conducted in consultation with interested States;

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

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

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

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

BURNS AMENDMENT NO. 3205

Mr. BURNS proposed an amendment to the bill, S. 2168, supra; as follows:

On page 93, between lines 18 and 19 insert the following:

SEC. 4___. INSURANCE; INDEMNIFICATION; LIABILITY.

(a) IN GENERAL.—The Administrator may provide liability insurance for, or indemnification to, the developer of an experimental aerospace vehicle developed or used in execution of an agreement between the Administration and the developer.

(b) TERMS AND CONDITIONS.—

(1) IN GENERAL.—Except as otherwise provided in this section, the insurance and indemnification provided by the Administration under subsection (a) to a developer shall be provided on the same terms and conditions as insurance and indemnification is provided by the Administration under section 308 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2458b) to the user of a space vehicle.

(2) INSURANCE.—

(A) IN GENERAL.—A developer shall obtain liability insurance or demonstrate financial responsibility in amounts to compensate for the maximum probable loss from claims by—

(i) a third party for death, bodily injury, or property damage, or loss resulting from an activity carried out in connection with the development or use of an experimental aerospace vehicle; and

(ii) the United States Government for damage or loss to Government property resulting from such an activity.

(B) MAXIMUM REQUIRED.—The Administrator shall determine the amount of insurance required, but, except as provided in subparagraph (C), that amount shall not be greater than the amount required under section 70112(a)(3) of title 49, United States Code, for a launch. The Administrator shall publish notice of the Administrator's determination and the applicable amount or amounts in the Federal Register within 10 days after making the determination.

(C) INCREASE IN DOLLAR AMOUNTS.—The Administrator may increase the dollar amounts set forth in section 70112(a)(3)(A) of title 49, United States Code, for the purpose of applying that section under this section to a developer after consultation with the Comptroller General and such experts and consultants as may be appropriate, and after publishing notice of the increase in the Federal Register not less than 180 days before the increase goes into effect. The Administrator shall make available for public inspection, not later than the date of publication of such notice, a complete record of any correspondence received by the Administration, and a transcript of any meetings in which the Administration participated, regarding the proposed increase.

(D) SAFETY REVIEW REQUIRED BEFORE ADMINISTRATOR PROVIDES INSURANCE.—The Administrator may not provide liability insurance or indemnification under subsection (a) unless the developer establishes to the satisfaction of the Administrator that appropriate safety procedures and practices are being followed in the development of the experimental aerospace vehicle.

(3) NO INDEMNIFICATION WITHOUT CROSS-WAIVER.—Notwithstanding subsection (a), the Administrator may not indemnify a developer of an experimental aerospace vehicle under this section unless there is an agreement between the Administration and the developer described in subsection (c).

(4) APPLICATION OF CERTAIN PROCEDURES.—If the Administrator requests additional appropriations to make payments under this section, like the payments that may be made under section 308(b) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2458b(b)), then the request for those appropriations shall be made in accordance with the procedures established by subsections (d) and (e) of section 70113 of title 49, United States Code.

(c) CROSS-WAIVERS.—

(1) ADMINISTRATOR AUTHORIZED TO WAIVE.—The Administrator, on behalf of the United States, and its departments, agencies, and instrumentalities, may reciprocally waive claims with a developer and with the related entities of that developer under which each party to the waiver agrees to be responsible, and agrees to ensure that its own related entities are responsible, for damage or loss to its property for which it is responsible, or for losses resulting from any injury or death sustained by its own employees or agents, as a result of activities connected to the agreement or use of the experimental aerospace vehicle.

(2) LIMITATIONS.—

(A) CLAIMS.—A reciprocal waiver under paragraph (1) may not preclude a claim by any natural person (including, but not limited to, a natural person who is an employee of the United States, the developer, or the developer's subcontractors) or that natural person's estate, survivors, or subrogees for injury or death, except with respect to a subrogee that is a party to the waiver or has otherwise agreed to be bound by the terms of the waiver.

(B) LIABILITY FOR NEGLIGENCE.—A reciprocal waiver under paragraph (1) may not absolve any party of liability to any natural person (including, but not limited to, a natural person who is an employee of the United States, the developer, or the developer's subcontractors) or such a natural person's estate, survivors, or subrogees for negligence, except with respect to a subrogee that is a party to the waiver or has otherwise agreed to be bound by the terms of the waiver.

(C) INDEMNIFICATION FOR DAMAGES.—A reciprocal waiver under paragraph (1) may not be used as the basis of a claim by the Administration or the developer for indemnification against the other for damages paid to a natural person, or that natural person's estate, survivors, or subrogees, for injury or death sustained by that natural person as a result of activities connected to the agreement or use of the experimental aerospace vehicle.

(d) DEFINITIONS.—In this section:

(1) ADMINISTRATION.—The term ''Administration'' means the National Aeronautics and Space Administration.

(2) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the National Aeronautics and Space Administration.

(3) COMMON TERMS.—Any term used in this section that is defined in the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451 et seq.) has the same meaning in this section as when it is used in that Act.

(4) DEVELOPER.—The term ''developer'' means a person (other than a natural person) who—

(A) is a party to an agreement that was in effect before the date of enactment of this Act with the Administration for the purpose of developing new technology for an experimental aerospace vehicle;

(B) owns or provides property to be flown or situated on that vehicle; or

(C) employs a natural person to be flown on that vehicle.

(5) EXPERIMENTAL AEROSPACE VEHICLE.—The term ''experimental aerospace vehicle'' means an object intended to be flown in, or launched into, suborbital flight for the purpose of demonstrating technologies necessary for a reusable launch vehicle, developed under an agreement between the Administration and a developer that was in effect before the date of enactment of this Act.

(e) RELATIONSHIP TO OTHER LAWS.—

(1) SECTION 308 OF NATIONAL AERONAUTICS AND SPACE ACT OF 1958.—This section does not apply to any object, transaction, or operation to which section 308 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2458b) applies.

(2) CHAPTER 701 OF TITLE 49, UNITED STATES CODE.—The Administrator may not provide indemnification to a developer under this section for launches subject to license under section 70117(g)(1) of title 49, United States Code.

(f) TERMINATION.—

(1) IN GENERAL.—The provisions of this section shall terminate on December 31, 2002, except that the Administrator may extend the termination date to a date not later than September 30, 2005, if the Administrator determines that such an extension is necessary to cover the operation of an experimental aerospace vehicle.

(2) EFFECT OF TERMINATION ON AGREEMENTS.—The termination of this section does not terminate or otherwise affect a cross-waiver agreement, insurance agreement, indemnification agreement, or any other agreement entered into under this section except as may be provided in that agreement.

SESSIONS AMENDMENT NO. 3206

Mr. SESSIONS proposed an amendment to the bill, S. 2168, supra; as follows:

Beginning on page 58, strike line 15 and all that follows through page 79, line 2, and insert the following:

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

NATIONAL AND COMMUNITY SERVICE PROGRAMS

OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for the Corporation for National and Community Service (referred to in the matter under this heading as the ''Corporation'') in carrying out programs, activities, and initiatives under the National and Community Service Act of 1990 (referred to in the matter under this heading as the ''Act'') (42 U.S.C. 12501 et seq.), $309,500,000, to remain available until September 30, 1999: *Provided,* That not more than $27,000,000 shall be available for administrative expenses authorized under section 501(a)(4) of the Act (42 U.S.C. 12671(a)(4)): *Provided further,* That not more than $2,500 shall be for official reception and representation expenses: *Provided further,* That not more than $70,000,000, to remain available without fiscal year limitation, shall be transferred to the National Service Trust account for educational awards authorized under subtitle D of title I of the Act (42 U.S.C. 12601 et seq.), of which not to exceed $5,000,000 shall be available for national service scholarships for high school students performing community service: *Provided further,* That not more than $120,000,000 of the amount provided under this heading shall be available for grants under the National Service Trust program authorized under subtitle C of title I of the Act (42 U.S.C. 12571 et seq.) (relating to activities including the AmeriCorps program), of which not more than $40,000,000 may be used to administer, reimburse, or support any national service program authorized under section 121(d)(2) of such Act (42 U.S.C. 12581(d)(2)): *Provided further,* That not more than $5,500,000 of the funds made available under this heading shall be made available for the Points of Light Foundation for activities authorized under title III of the Act (42 U.S.C. 12661 et seq.): *Provided further,* That no funds shall be available for national service programs run by Federal agencies authorized under section 121(b) of such Act (42 U.S.C. 12571(b)): *Provided further,* That to the maximum extent feasible, funds appropriated under subtitle C of title I of the Act shall be provided in a manner that is consistent with the recommendations of peer review panels in order to ensure that priority is given to programs that demonstrate quality, innovation, replicability, and sustainability: *Provided further,* That not more than $9,000,000 of the funds made available under this heading shall be available for the Civilian Community Corps authorized under subtitle E of title I of the Act (42 U.S.C. 12611 et seq.): *Provided further,* That not more than $43,000,000 shall be available for school-based and community-based service-learning programs authorized under subtitle B of title I of the Act (42 U.S.C. 12521 et seq.): *Provided further,* That not more than $30,000,000 shall be available for quality and innovation activities authorized under subtitle H of title I of the Act (42 U.S.C. 12853 et seq.): *Provided further,* That not more than $5,000,000 shall be available for audits and other evaluations authorized under section 179 of the Act (42 U.S.C. 12639): *Provided further,* That to the maximum extent practicable, the Corporation shall increase significantly the level of matching funds and in-kind contributions provided by the private sector, shall expand significantly the number of educational awards provided under subtitle D of title I, and shall reduce the total Federal costs per participant in all programs.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the Inspector General Act of 1978, as amended, $3,000,000.

COURT OF VETERANS APPEALS

SALARIES AND EXPENSES

For necessary expenses for the operation of the United States Court of Veterans Appeals as authorized by 38 U.S.C. sections 7251–7298, $10,000,000, of which $865,000, shall be available for the purpose of providing financial assistance as described, and in accordance with the process and reporting procedures set fourth, under this heading in Public Law 102–229.

DEPARTMENT OF DEFENSE—CIVIL

CEMETERIAL EXPENSES, ARMY

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, for maintenance, operation, and improvement of Arlington National Cemetery and Soldiers' and Airmen's Home National Cemetery, including the purchase of two passenger motor vehicles for replacement only, and not to exceed $1,000 for official reception and representation expenses, $11,666,000, to remain available until expended.

ENVIRONMENTAL PROTECTION AGENCY

SCIENCE AND TECHNOLOGY

(INCLUDING TRANSFER OF FUNDS)

For science and technology, including research and development activities, which shall include research and development activities under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended; necessary expenses for personnel and related costs and travel expenses, including uniforms, or allowances therefore, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the maximum rate payable for senior level positions under 5 U.S.C. 5376; procurement of laboratory equipment and supplies; other operating expenses in support of research and development; construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project, $643,460,000, which shall remain available until September 30, 2000: *Provided,* That the

obligated balance of such sums shall remain available through September 30, 2007 for liquidating obligations made in fiscal years 1999 and 2000.

ENVIRONMENTAL PROGRAMS AND MANAGEMENT

For environmental programs and management, including necessary expenses, not otherwise provided for, for personnel and related costs and travel expenses, including uniforms, or allowances therefore, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals 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; hire, maintenance, and operation of aircraft; purchase of reprints; library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members; construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project; and not to exceed $6,000 for official reception and representation expenses, $1,840,500,000, which shall remain available until September 30, 2000: *Provided,* That the obligated balance of such sums shall remain available through September 30, 2007 for liquidating obligations made in fiscal years 1999 and 2000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project, $31,154,000, to remain available until September 30, 2000: *Provided,* That the obligated balance of such sums shall remain available through September 30, 2007 for liquidating obligations made in fiscal years 1999 and 2000.

BUILDINGS AND FACILITIES

For construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of, or for use by, the Environmental Protection Agency, $52,948,000, to remain available until expended.

HAZARDOUS SUBSTANCE SUPERFUND

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, including sections 111 (c)(3), (c)(5), (c)(6), and (e)(4) (42 U.S.C. 9611), and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project; not to exceed $1,500,000,000 (of which $100,000,000 shall not become available until September 1, 1999), to remain available until expended, consisting of $1,250,000,000, as authorized by section 517(a) of the Superfund Amendments and Reauthorization Act of 1986 (SARA), as amended by Public Law 101–508, and $250,000,000 as a payment from general revenues to the Hazardous Substance Superfund as authorized by section 517(b) of SARA, as amended by Public Law 101–508: *Provided,* That funds appropriated under this heading may be allocated to other Federal agencies in accordance with section 111(a) of CERCLA: *Provided further,* That $12,237,300 of the funds appropriated under this heading shall be transferred to the ''Office of Inspector General'' appropriation to remain available until September 30, 2000: *Provided further,* That notwithstanding section 111(m) of CERCLA or any other provision of law, $74,000,000 of the funds appropriated under this heading shall be available to the Agency for Toxic Substances and Disease Registry to carry out activities described in sections 104(i), 111(c)(4), and 111(c)(14) of CERCLA and section 118(f) of SARA: *Provided further,* That $40,200,000 of the funds appropriated under this heading shall be transferred to the ''Science and Technology'' appropriation to remain available until September 30, 2000: *Provided further,* That none of the funds appropriated under this heading shall be used for Brownfields revolving loan funds unless specifically authorized by subsequent legislation: *Provided further,* That none of the funds appropriated under this heading shall be available for the Agency for Toxic Substances and Disease Registry to issue in excess of 40 toxicological profiles pursuant to section 104(i) of CERCLA during fiscal year 1998.

LEAKING UNDERGROUND STORAGE TANK PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out leaking underground storage tank cleanup activities authorized by section 205 of the Superfund Amendments and Reauthorization Act of 1986, and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project, $75,000,000, to remain available until expended: *Provided,* That hereafter, the Administrator is authorized to enter into assistance agreements with Federally recognized Indian tribes on such terms and conditions as she deems appropriate for the same purposes as are set forth in section 9003(h)(7) of RCRA.

OIL SPILL RESPONSE

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary to carry out the Environmental Protection Agency's responsibilities under the Oil Pollution Act of 1990, $15,000,000, to be derived from the Oil Spill Liability trust fund, and to remain available until expended.

STATE AND TRIBAL ASSISTANCE GRANTS

For environmental programs and infrastructure assistance, including capitalization grants for State revolving funds and performance partnership grants, $3,255,000,000, to remain available until expended, of which $1,400,000,000 shall be for making capitalization grants for the Clean Water State Revolving Funds under title VI of the Federal Water Pollution Control Act, as amended, and $800,000,000 shall be for capitalization grants for the Drinking Water State Revolving Funds under section 1452 of the Safe Drinking Water Act, as amended; $75,000,000 for architectural, engineering, planning, design, construction and related activities in connection with the construction of high priority water and wastewater facilities in the area of the United States-Mexico Border, after consultation with the appropriate border commission; $30,000,000 for grants to the State of Alaska to address drinking water and wastewater infrastructure needs of rural and Alaska Native Villages; $100,000,000 for making grants for the construction of wastewater and water treatment facilities and groundwater protection infrastructure in accordance with the terms and conditions specified for such grants in the Committee report (S. Rept. 105–216) accompanying this Act (S. 2168); and $850,000,000 for grants, including associated program support costs, to States, federally recognized tribes, interstate agencies, tribal consortia, and air pollution control agencies for multi-media or single media pollution prevention, control and abatement and related activities, including activities pursuant to the provisions set forth under this heading in Public Law 104–134, and for making grants under section 103 of the Clean Air Act for particulate matter monitoring and data collection activities: *Provided,* That, consistent with section 1452(g) of the Safe Drinking Water Act (42 U.S.C. 300j–12(g)), section 302 of the Safe Drinking Water Act Amendments of 1996 (Public Law 104–182) and the accompanying joint explanatory statement of the committee on conference (H. Rept. No. 104–741 to accompany S. 1316, the Safe Drinking Water Act Amendments of 1996), and notwithstanding any other provision of law, beginning in fiscal year 1999 and thereafter, States may combine the assets of State Revolving Funds (SRFs) established under section 1452 of the Safe Drinking Water Act, as amended, and title VI of the Federal Water Pollution Control Act, as amended, as security for bond issues to enhance the lending capacity of one or both SRFs, but not to acquire the state match for either program, provided that revenues from the bonds are allocated to the purposes of the Safe Drinking Water Act and the Federal Water Pollution Control Act in the same portion as the funds are used as security for the bonds: *Provided further,* That, notwithstanding the matching requirement in Public Law 104–204 for funds appropriated under this heading for grants to the State of Texas for improving wastewater treatment for the Colonias, such funds that remain unobligated may also be used for improving water treatment for the Colonias, and shall be matched by State funds from State resources equal to 20 percent of such unobligated funds: *Provided further,* That, hereafter the Administrator is authorized to enter into assistance agreements with Federally recognized Indian tribes on such terms and conditions as she deems appropriate for the development and implementation of programs to manage hazardous waste, and underground storage tanks: *Provided further,* That beginning in fiscal year 1999 and thereafter, pesticide program implementation grants under section 23(a)(1) of the Federal Insecticide, Fungicide and Rodenticide Act, as amended, shall be available for pesticide program development and implementation, including enforcement and compliance activities.

ADMINISTRATIVE PROVISION

None of the funding provided under this Act may be used by the Environmental Protection Agency to issue any notification, or enter into, implement or approve agreements that enable the export of government owned ships to be dismantled in foreign countries unless the Administrator of the Environmental Protection Agency certifies to the Congress that the environmental standards imposed by law and enforced in the country in which the vessel is to be dismantled or scrapped are comparable to the environmental standards imposed and enforced under United States law.

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

For necessary expenses of the Office of Science and Technology Policy, in carrying out the purposes of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 and 6671), hire of passenger motor vehicles, and services as authorized by 5 U.S.C. 3109, not to exceed $2,500 for official reception and representation expenses, and rental of conference rooms in the District of Columbia, $5,026,000.

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

For necessary expenses to continue functions assigned to the Council on Environmental Quality and Office of Environmental Quality pursuant to the National Environmental Policy Act of 1969, the Environmental Quality Improvement Act of 1970, and Reorganization Plan No. 1 of 1977, $2,575,000: *Provided,* That, notwithstanding any other provision of law, no funds other than those

appropriated under this heading, shall be used for or by the Council on Environmental Quality and Office of Environmental Quality: *Provided further*, That notwithstanding section 202 of the National Environmental Policy Act of 1970, the Council shall consist of one member, appointed by the President, by and with the advice and consent of the Senate, serving as Chairman and exercising all powers, functions, and duties of the Council.

FEDERAL DEPOSIT INSURANCE CORPORATION

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $34,666,000, to be derived from the Bank Insurance Fund, the Savings Association Insurance Fund, and the FSLIC Resolution Fund.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

For necessary expenses in carrying out the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $846,000,000, and, notwithstanding 42 U.S.C. 5203, to remain available until expended.

DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

For the cost of direct loans, $1,355,000, as authorized by section 319 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act: *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, as amended: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $25,000,000.

In addition, for administrative expenses to carry out the direct loan program, $440,000.

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, including hire and purchase of motor vehicles as authorized by 31 U.S.C. 1343; uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18; expenses of attendance of cooperating officials and individuals at meetings concerned with the work of emergency preparedness; transportation in connection with the continuity of Government programs to the same extent and in the same manner as permitted the Secretary of a Military Department under 10 U.S.C. 2632; and not to exceed $2,500 for official reception and representation expenses, $170,000,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the Inspector General Act of 1978, as amended, $5,400,000.

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

For necessary expenses, not otherwise provided for, to carry out activities under the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977, as amended (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 et seq.), the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.), sections 107 and 303 of the National Security Act of 1947, as amended (50 U.S.C. 404–405), and Reorganization Plan No. 3 of 1978, $231,000,000: *Provided*, That for purposes of pre-disaster mitigation pursuant to 42 U.S.C. 5131 (b) and (c) and 42 U.S.C. 5196 (e) and (i), $25,000,000 of the funds made available under this heading shall be available until expended for project grants.

EMERGENCY FOOD AND SHELTER PROGRAM

To carry out an emergency food and shelter program pursuant to title III of Public Law 100–77, as amended, $100,000,000: *Provided*, That total administrative costs shall not exceed three and one-half percent of the total appropriation.

RADIOLOGICAL EMERGENCY PREPAREDNESS FUND

There is hereby established in the Treasury a Radiological Emergency Preparedness Fund, which shall be available under the Atomic Energy Act of 1954, as amended, and Executive Order 12657, for offsite radiological emergency planning, preparedness, and response. Beginning in fiscal year 1999 and thereafter, the Director of the Federal Emergency Management Agency (FEMA) shall promulgate through rulemaking fees to be assessed and collected, applicable to persons subject to FEMA's radiological emergency preparedness regulations. The aggregate charges assessed pursuant to this section during fiscal year 1999 shall not be less than 100 percent of the amounts anticipated by FEMA necessary for its radiological emergency preparedness program for such fiscal year. The methodology for assessment and collection of fees shall be fair and equitable; and shall reflect costs of providing such services, including administrative costs of collecting such fees. Fees received pursuant to this section shall be deposited in the Fund as offsetting collections and will become available for authorized purposes on October 1, 1999, and remain available until expended.

For necessary expenses of the Fund for fiscal year 1999, $12,849,000, to remain available until expended.

NATIONAL FLOOD INSURANCE FUND

(INCLUDING TRANSFER OF FUNDS)

For activities under the National Flood Insurance Act of 1968, the Flood Disaster Protection Act of 1973, as amended, not to exceed $22,685,000 for salaries and expenses associated with flood mitigation and flood insurance operations, and not to exceed $78,464,000 for flood mitigation, including up to $20,000,000 for expenses under section 1366 of the National Flood Insurance Act, which amount shall be available for transfer to the National Flood Mitigation Fund until September 30, 2000. In fiscal year 1999, no funds in excess of (1) $47,000,000 for operating expenses, (2) $343,989,000 for agents' commissions and taxes, and (3) $60,000,000 for interest on Treasury borrowings shall be available from the National Flood Insurance Fund without prior notice to the Committees on Appropriations. For fiscal year 1999, flood insurance rates shall not exceed the level authorized by the National Flood Insurance Reform Act of 1994.

Section 1309(a)(2) of the National Flood Insurance Act (42 U.S.C. 4016(a)(2)), as amended by Public Law 104–208, is further amended by striking ''1998'' and inserting ''1999''.

Section 1319 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4026), is amended by striking ''September 30, 1998'' and inserting ''September 30, 1999''.

Section 1336 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4056), is amended by striking ''September 30, 1998'' and inserting ''September 30, 1999''.

The first sentence of section 1376(c) of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4127(c)), is amended by striking ''September 30, 1998'' and inserting ''September 30, 1999''.

GENERAL SERVICES ADMINISTRATION

CONSUMER INFORMATION CENTER FUND

For necessary expenses of the Consumer Information Center, including services authorized by 5 U.S.C. 3109, $2,419,000, to be deposited into the Consumer Information Center Fund: *Provided*, That the appropriations, revenues and collections deposited into the fund shall be available for necessary expenses of Consumer Information Center activities in the aggregate amount of $7,500,000. Appropriations, revenues, and collections accruing to this fund during fiscal year 1999 in excess of $7,500,000 shall remain in the fund and shall not be available for expenditure except as authorized in appropriations Acts.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

INTERNATIONAL SPACE STATION

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses, not otherwise provided for, in support of the International Space Station, including development, operations and research support; maintenance; construction of facilities including repair, rehabilitation, and modification of real and personal property, and acquisition or condemnation of real property, as authorized by law; and purchase, lease, charter, maintenance and operation of mission and administrative aircraft, $2,300,000,000, to remain available until September 30, 2000.

LAUNCH VEHICLES AND PAYLOAD OPERATIONS

For necessary expenses, not otherwise provided for, in the conduct and support of the space shuttle program, including safety and performance upgrades, space shuttle operations, and payload utilization and operations, and services; maintenance; construction of facilities including repair, rehabilitation, and modification of real and personal property, and acquisition or condemnation of real property, as authorized by law; space flight, spacecraft control and communications activities including operations, production, and services; and purchase, lease, charter, maintenance and operation of mission and administrative aircraft, $3,241,000,000, to remain available until September 30, 2000; *Provided*, That none of the funds provided under this heading may be utilized to support the development or operations of the International Space Station other than costs of space shuttle flights utilized for space station assembly.

SCIENCE AND TECHNOLOGY

For necessary expenses, not otherwise provided for, in the conduct and support of space science, earth science, life and mirogravity science, and academic programs, including research, development; operations, and services; maintenance; construction of facilities including repair, rehabilitation, and modification of real and personal property, and acquisition or condemnation of real property, as authorized by law; space flight, spacecraft control and communications activities including operations, production, and services; and purchase, lease, charter, maintenance and operation of mission and administrative aircraft, $4,270,400,000, to remain available until September 30, 2000: *Provided*, That none of the funds provided under this heading may be utilized to support the development or operations of the International Space Station.

AERONAUTICS, SPACE TRANSPORTATION AND TECHNOLOGY

For necessary expenses, not otherwise provided for, in the conduct and support of aeronautics, space transportation, and technology research and development activities, including research, development, operations, and services; maintenance; construction of facilities including repair, rehabilitation,

and modification of real and personal property, and acquisition of condemnation of real property, as authorized by law; and purchase, lease, charter, and maintenance and operation of mission and administrative aircraft, $1,325,000,000, to remain available until September 30, 2000: *Provided*, That none of the funds provided under this heading may be utilized to support the development or operations of the International Space Station.

ASHCROFT (AND BOND) AMENDMENT NO. 3207

Mr. BOND (for Mr. ASHCROFT) (for himself and Mr. BOND) proposed an amendment to the bill, S. 2168, supra; as follows:

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

SEC. 4___. INELIGIBILITY OF INDIVIDUALS CONVICTED OF MANUFACTURING OR PRODUCING METHAMPHETAMINE FOR CERTAIN HOUSING ASSISTANCE.

Section 16 of the United States Housing Act of 1937 (42 U.S.C. 1437n) is amended by adding at the end the following:

''(f) INELIGIBILITY OF INDIVIDUALS CONVICTED OF MANUFACTURING OR PRODUCING METHAMPHETAMINE ON THE PREMISES.—Notwithstanding any other provision of law, a public housing agency shall establish standards for occupancy in public housing dwelling units and assistance under section 8 that—

''(1) permanently prohibit occupancy in any public housing dwelling unit by, and assistance under section 8 for, any person who has been convicted of manufacturing or otherwise producing methamphetamine on the premises in violation of any Federal or State law; and

''(2) immediately and permanently terminate the tenancy in any public housing unit of, and the assistance under section 8 for, any person who is convicted of manufacturing or otherwise producing methamphetamine on the premises in violation of any Federal or State law.''.

SNOWE (AND COLLINS) AMENDMENT NO. 3208

Mr. BOND (for Ms. SNOWE for himself and Ms. COLLINS) proposed an amendment to the bill, S. 2168, supra; as follows:

SEC. 110. (a) It is the sense of the Senate that it should be the goal of the Department of Veterans Affairs to serve all veterans at health care facilities within 250 miles of their homes, and to minimize travel distances if specialized services are not available at a health care facility operated by the Veterans Health Administration within 250 miles of a veteran's home.

(b) Not later than 6 months after the date of enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the House of Representatives and the Senate a report on the estimated costs to and impact on the health care system administered by the Veterans Health Administration of making specialty care available to all veterans within 250 miles of their homes.

BOND (AND MIKULSKI) AMENDMENT NO. 3209

Mr. BOND (for himself and Ms. MIKULSKI) proposed an amendment to the bill, S. 2168, supra; as follows:

On page 17, line 10, insert after ''1437)'' the following: ''(the ''Act'' herein)''.

On page 17, beginning on line 22, strike out ''United States Housing Act of 1937'' and insert in lieu thereof: ''Act''.

On page 19, line 14, insert after ''basis'' the following ''(except as otherwise provided in this proviso)''.

On page 19, line 23, strike the colon and insert a period.

On page 19, line 23, strike ''Provided further, That from'' and insert in lieu thereof ''From'' as the first word in a new paragraph beginning on line 24.

On page 21, line 13 insert after ''in'', the following ''title II,''.

On page 23, line 3, insert after ''agencies: the following: '', Indian Tribes and their''.

On page 28, beginning on line 5, strike ''and community'' and all that follows through ''porations'' on line 6 and insert in lieu thereof '', community development corporations and Indian tribes''.

On page 28, line 9, insert after ''for'' the following: ''Indian tribes and''.

On page 28, line 13, insert after ''1999 to'' the following: ''Indian tribes and''.

On page 31, beginning on line 16, strike ''such Act'' and insert in lieu thereof ''the United States Housing Act of 1937''.

On page 32, beginning on line 21, strike ''this proviso shall not apply'' and insert in lieu thereof the following: ''funds under this proviso shall not be used''.

On page 33, line 5, strike ''. Local'' and insert in lieu thereof the following: '': Provided That, local''.

On page 34, line 7, strike ''. In addition,'' and insert in lieu thereof the following: '': Provided further, That in addition to the other amounts appropriated under this heading,''

On page 34, line 16, strike ''projects'' and insert in lieu thereof: ''any project''.

On page 36, beginning on line 11, strike ''under'' and all that follows through ''1437)'' on line 13.

On page 41, beginning on line 16, strike ''where'' and all that follows through ''request'' on line 18 and insert in lieu thereof the following ''subject to reprogramming''.

On page 42, line 20 insert after ''vided'' the following: ''by transfer''.

On page 42, line 21, after ''provided'' insert the following: ''by transfer''.

On page 43, line 7, strike ''and $10,000,000 shall be transferred'' and insert in lieu thereof the following: '': Provided, That $10,000,000 shall also be transferred to this account''.

On page 44, line 4, strike ''1997'' and insert in lieu thereof the following ''1998''.

On page 44, line 5, strike ''1998'' and insert in lieu thereof the following ''1999''.

On page 49, line 6, strike ''236(g)'' and insert in lieu thereof the following ''236''.

On page 49, line 7, strike ''read'' and insert in lieu thereof the following ''add a subsection in the appropriate place''.

On page 50, beginning on line 21, strike ''originated and endorsed'' and insert in lieu thereof the following: ''executed''.

On page 53, line 7, insert after ''associated with'' the following: ''senior''.

On page 53, line 8, insert before the period the following: ''except that the Secretary may fund education and training programs associated with the Community Development Block Grant program, the Community First Leadership program and the Junior Community Builders program, subject to the Secretary submitting to the Committees on Appropriations an action plan identifying all funding to be used and the education and training programs for which the funding will be provided.''.

On page 54, line 7, strike ''year'' and insert in lieu thereof the following: ''years''.

Campbell/Stevens/Mack/Bond: On page 55, insert after line 13 the following new section and renumber, accordingly:

SEC. PUBLIC AND ASSISTED HOUSING DRUG ELIMINATION ACT.

The Public and Assisted Housing Drug Elimination Act of 1990 is amended—

(1) in section 5123, by inserting ''Indian tribes'' before ''and private'';

(2) in section 5124(a)(7), by inserting '', an Indian tribe,'' before ''or tribally designated'';

(3) in section 5125, by inserting ''an Indian tribe'' before ''or tribally designated''; and

(4) by adding at the end the following new paragraph:

''(6) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in 25 U.S.C. 4103(12).''.

On line 55, insert after line 13 the following new sections and renumber, accordingly:

''SEC. . MULTIFAMILY HOUSING INSTITUTE.

Notwithstanding any other provision of law, the Secretary may, from time to time, as determined necessary to assist the Department in managing its multifamily assets including analyzing, tracking and evaluating its portfolio of FHA-insured and other mortgages and properties and assisting the Department in understanding and reducing the risk involved in its mortgage restructuring, insuring and guaranteeing activities, provide data to, and purchase data from, any nonprofit, industry supported, on-line provider of nationwide, multifamily housing loan and property data services.''.

''SEC. . MULTIFAMILY MORTGAGE AUCTIONS.

Section 221(g)(4)(C) of the National Housing Act is amended—

(1) in the first sentence of clause (viii), by striking ''September 30, 1996'' and inserting ''December 31, 2002''; and

(2) by adding at the end the following:

''(ix) The authority of the Secretary to conduct multifamily auctions under this paragraph shall be effective for any fiscal year only to the extent and in such amounts as are approved in appropriations Acts for the costs of loan guarantees (as defined in section 502 of the Congressional Budget Act of 1974), including the cost of modifying loans.''.

On page 93, after line 21, insert the following new subsection.

''SEC. .

None of the funds provided in this Act may be obligated after February 15, 1999, unless each department, agency, corporation, and commission that receives funds herein provides detailed justifications to the Committees on Appropriations for all salary and expense activities for Fiscal Years 1999 through 2003, including personnel compensation and benefits, consulting costs, professional services or technical service contracts regardless of the dollar amount, contracting out costs, travel and other standard object classifications for all headquarters offices, regional offices, or field installations and laboratories, including the number of full-time equivalents per office, and the personnel compensation, benefits and travel costs for each Secretary, assistant secretary or administrator.

At the appropriate place, insert the following:

SEC. ____. Notwithstanding any other provision of law, of the $1,250,000 made available pursuant to Public Law 102–389 for economic revitalization and infrastructure repair in Montpelier, Vermont, $250,000 is available for the Central Vermont Revolving Loan Fund administered by the Central Vermont Community Action Council.

At the appropriate place, insert the following:

SEC. ____. ANNUAL REPORT ON MANAGEMENT DEFICIENCIES.

(a) IN GENERAL.—Section 203 of the National Housing Act (12 U.S.C. 1709) is amended by adding at the end the following:

''(w) MANAGEMENT DEFICIENCIES REPORT.—

''(1) IN GENERAL.—Not later than 60 days after the date of enactment of this subsection, and annually thereafter, the Secretary shall submit to Congress a report on

the plan of the Secretary to address each material weakness, reportable condition, and noncompliance with an applicable law or regulation (as defined by the Director of the Office of Management and Budget) identified in the most recent audited financial statement of the Federal Housing Administration submitted under section 3515 of title 31, United States Code.

''(2) CONTENTS OF ANNUAL REPORT.—Each report submitted under paragraph (1) shall include—

''(A) an estimate of the resources, including staff, information systems, and contract assistance, required to address each material weakness, reportable condition, and noncompliance with an applicable law or regulation described in paragraph (1), and the costs associated with those resources;

''(B) an estimated timetable for addressing each material weakness, reportable condition, and noncompliance with an applicable law or regulation described in paragraph (1); and

''(C) the progress of the Secretary in implementing the plan of the Secretary included in the report submitted under paragraph (1) for the preceding year, except that this subparagraph does not apply to the initial report submitted under paragraph (1).''.

(b) EFFECT ON OTHER AUTHORITY.—The Secretary of Housing and Urban Development may not implement section 219 of this Act before the date on which the Secretary submits the initial report required under section 203(w) of the National Housing Act (12 U.S.C. 1709(w)), as added by subsection (a) of this section.

On page 85, after line 11, add the following:

ADMINISTRATIVE PROVISION

SEC. 301. COMPREHENSIVE ACCOUNTABILITY STUDY FOR FEDERALLY-FUNDED RESEARCH.

(A) STUDY.—The Director of the Office of Science and Technology Policy, in consultation with the Director of the Office of Management and Budget, may enter into an agreement with the National Academy of Sciences for the Academy to conduct a comprehensive study to develop methods for evaluating Federally-funded research and development programs. This study shall—

(1) recommend processes to determine an acceptable level of success for Federally-funded research and development programs by—

(A) describing the research process in the various scientific and engineering disciplines;

(B) describing in the different sciences what measures and what criteria each community uses to evaluate the success or failure of a program, and on what time scales these measure are considered reliable—both for exploratory long-range work and for short-range goals; and

(C) recommending how these measures may be adapted for use by the Federal government to evaluate Federally-funded research and development programs;

(2) assess the extent to which agencies incorporate independent merit-based evaluation into the formulation of the strategic plans of funding agencies and if the quantity or quality of this type of input is unsatisfactory;

(3) recommend mechanisms for identifying Federally-funded research and development programs which are unsuccessful or unproductive;

(4) evaluate the extent to which independent, merit-based evaluation of Federally-funded research and development programs and projects achieves the goal of eliminating unsuccessful or unproductive programs and projects; and

(5) investigate and report on the validity of using quantitative performance goals for aspects of programs which relate to administrative management of the program and for which such goals would be appropriate, including aspects related to—

(A) administrative burden on contractors and recipients of financial assistance awards;

(B) administrative burdens on external participants in independent, merit-based evaluations;

(C) cost and schedule control for construction projects funded by the program;

(D) the ratio of overhead costs of the program relative to the amounts expended through the program for equipment and direct funding of research; and

(E) the timeliness of program responses to requests for funding, participation, or equipment use.

(b) INDEPENDENT MERIT-BASED EVALUATION DEFINED.—The term ''independent merit-based evaluation'' means review of the scientific or technical quality of research or development, conducted by experts who are chosen for their knowledge of scientific and technical fields relevant to the evaluation and who—

(1) in the case of the review of a program activity, do not derive long-term support from the program activity; or

(2) in the case of the review of a project proposal, are not seeking funds in competition with the proposal.

Insert at the appropriate place.

SEC. . INFORMED CONSUMER CHOICE.

(a) Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended by adding at the end the following:

''Notwithstanding subparagraph (A) of this paragraph, the Secretary may not insure a mortgage unless the original lender making the loan secured by that mortgage provided to the prospective mortgagor a written notice that included (i) a generic analysis comparing the note rate (and associated interest payments), insurance premiums, and other costs and fees that would be due over the life of the loan for a loan insured by the Secretary under this subsection with the note rates, insurance premiums (if applicable), and other costs and fees that would be expected to be due if the mortgagor obtained instead any of the mortgagor's 3 most frequently employed structures for mortgage loans with a similar loan-to-value ratio in connection with a conventional mortgage (as that term is used in section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) or section 302(b)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2)), as applicable), assuming prevailing interest rates; and (ii) a statement regarding when the mortgagor's requirement to pay the mortgage insurance premiums for a mortgage insured under this section would terminate or a statement that the requirement will terminate only if the mortgage is refinanced, paid off, or otherwise terminated.''.

(b) ANNUAL STUDY BY COMPTROLLER GENERAL.—Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended by adding at the end the following:

''Not later than the expiration of a 1-year period beginning on the effective date of this undesignated paragraph and annually thereafter, the Comptroller General of the United States shall conduct and submit to the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, a study regarding the extent, and cost to consumers, of steering by lenders to loans insured by the Secretary under this subsection and the degree to which lenders have complied with the requirements of this subsection.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect immediately.

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

SEC. 4. LOW-INCOME HOUSING PRESERVATION AND RESIDENT HOMEOWNERSHIP.

(a) NOTICE OF PREPAYMENT OR TERMINATION.—

(1) IN GENERAL.—Notwithstanding section 212(b) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4102) or any other provision of law, during fiscal year 1998 and each fiscal year thereafter, an owner of eligible low-income housing (as defined in section 229 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4119) that intends to take any action described in section 212(a) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4102(a)) shall, not less than 1 year before the date on which the action is taken—

(A) file a notice indicating that intent with the chief executive officer of the appropriate State or local government for the jurisdiction within which the housing is located; and

(B) provide each tenant of the housing with a copy of that notice.

(2) EXCEPTION.—The requirements of this subsection do not apply in any case in which the prepayment or termination at issue is necessary to effect conversion to ownership by a priority purchaser (as defined in section 231(a) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4120(a)). The requirements of this subsection do not apply where owners have provided, legal notice of prepayment of termination as of July 7, 1998, under the terms of current law.

CONCURRENT RESOLUTION RELATIVE TO PHOTOGRAPHIC FILM AND PAPER AND MARKET ACCESS TO JAPAN

D'AMATO AMENDMENT NO. 3210

Mr. BOND (for Mr. D'AMATO) proposed an amendment to the concurrent resolution (S. Con. Res. 88) calling on Japan to have an open, competitive market for consumer photographic film and paper and other sectors facing market access barrier in Japan; as follows:

On page 3, line 7, strike ''implement'' and insert ''support''.

On page 3, line 13, insert ''paper and wood products,'' after ''glass,''.

On page 3, line 21, strike ''July 15, 1998'' and insert ''December 15, 1998''.

On page 4, strike lines 1 and 2 and insert: ''access to Japanese markets for consumer photographic film and paper.''.

In the preamble—

(1) strike the ninth whereas clause; and

(2) in the 11th whereas clause strike ''is committed to promote'' and insert ''promotes''.

Amend the title so as to read: ''A concurrent resolution calling on Japan to have an open, competitive market for consumer photographic film and paper and other sectors facing market access barriers in Japan.''.

UNITED STATES ENRICHMENT CORPORATION PRIVATIZATION ACT AMENDMENTS

FORD AMENDMENT NO. 3211

Mr. BOND (for Mr. FORD) proposed an amendment to the bill (S. 2316) to require the Secretary of Energy to submit to Congress a plan to ensure that

all amounts accrued on the books of the United States Enrichment Corporation for the disposition of depleted uranium hexafluoride will be used to treat and recycle depleted uranium hexafluoride; as follows:

On Page 2, line 3, strike all after ''hexafluoride'' and insert the following:

consistent with the National Environmental Policy Act.

(b) LIMITATION.—Notwithstanding the privatization of the United States Enrichment Corporation and notwithstanding any other provision of law (including the repeal of chapters 22 through 26 of the Atomic Energy Act of 1954 (42 U.S.C. 2297 et seq.) made by section 3116(a)(1) of the USEC Privatization Act (104 Stat. 1321–349)), no amounts described in subsection (a) shall be withdrawn from the United States Enrichment Corporation Fund established by section 1308 of the Atomic Energy Act of 1954 (42 U.S.C. 2297b–7) or the Working Capital Account established under section 1316 of the Atomic Energy Act of 1954 (42 U.S.C. 2297b–15) until the date that is 1 year after the date on which the President submits to Congress the budget request for fiscal year 2000.

(c) SENSE OF THE SENATE.—It is the Sense of the Senate that Congress should authorize appropriations during fiscal year 2000 in an amount sufficient to fully fund the plan described in subsection (a).

NOTICE OF HEARING

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Ms. COLLINS. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, will hold a hearing entitled ''Cramming: An Emerging Telephone Billing Fraud.'' This hearing will examine the emerging problem of telephone cramming—the billing of unauthorized charges on a consumer's telephone bill. Specifically, the hearing will highlight the scope and nature of cramming, educate consumers about cramming, and determine what is being done to control the practice.

This hearing will take place on Thursday, July 23, 1998, at 9:30 a.m., in Room 342 of the Dirksen Senate Office Building. For further information, please contact Timothy J. Shea of the Subcommittee staff at 224–3721.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. ROBERTS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday July 16, 1998, at 9:30 a.m. in open session, to consider the nomination of Daryl Jones to be Secretary of the Air Force.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. ROBERTS. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, July 16, 1998, at 9:30 am on Universal Service: Schools and Libraries Program.

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

COMMITTEE ON FINANCE

Mr. ROBERTS. Mr. President, the Finance Committee requests unanimous consent to conduct a hearing on Thursday, July 16, 1998 beginning at 10:00 a.m. in room 215 Dirksen.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. ROBERTS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, July 16, 1998 at 10:00 am., 2:00 pm and 4:00 pm to hold three hearings.

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

COMMITTEE ON THE JUDICIARY

Mr. ROBERTS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold an executive business meeting during the session of the Senate on Thursday July 16, 1998, at 9:30 a.m., in Room 226, of the Senate Dirksen Office Building.

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

COMMITTEE ON THE JUDICIARY

Mr. ROBERTS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, July 16, 1998 at 2:00 p.m., in Room 226 of the Senate Dirksen Office Building, to hold a hearing on: ''Judicial Nominations.''

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

SPECIAL COMMITTEE ON AGING

Mr. ROBERTS. Mr. President, I ask unanimous consent that the Special Committee on Aging be permitted to meet on July 16, 1998 at 10:30 a.m. to 2:00 p.m. in Dirksen G50 for the purpose of conducting a forum.

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

SUBCOMMITTEE ON NATIONAL PARKS, HISTORIC PRESERVATION, AND RECREATION

Mr. ROBERTS. Mr. President, I ask unanimous consent that the Subcommittee on National Parks, Historic Preservation and Recreation of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, July 16, for purposes of conducting a subcommittee hearing which is scheduled to begin at 2:00 p.m. The purpose of this hearing is to receive testimony on S. 155, a bill to redesignate General Grant National Memorial Monument as Grant's Tomb National Monument, and for other purposes, S. 1408, a bill to established the Lower East Side Tenement National Historic Site, and for other purposes; S. 1718, a bill to amend the Weir Farm National Historic Site Establishment Act of 1990 to authorize the acquisition of additional acreage for the historic site to permit the development of visitor and administrative facilities and to authorize the appropriation of additional amounts for the acquisition of real and personal property; and S. 1990, to authorize expansion of Fort Davis National Historic Sit in Fort Davis, Texas.

The Presiding Officer. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

REMARKS OF SENATOR BENNETT ON THE YEAR 2000 TECHNOLOGY PROBLEM

• Mr. MOYNIHAN. Mr. President, I would like to bring to the Senate's attention the excellent speech on the Year 2000 (Y2K) technology problem given by Senator BENNETT at the National Press Club on Wednesday, July 15, 1998. The insightful and informative speech by the Chairman of the Senate's Special Committee on the Year 2000 further advances the work of our committee in bringing this time-sensitive issue to the fore. The speech accurately emphasized the urgent nature of Y2K, and candidly surmised the dire consequences if left uncorrected. I commend Senator BENNETT on his efforts to bring increased awareness of the millennium bug to the public and private sectors.

I ask that Senator BENNETT's address to the National Press Club be printed in the RECORD.

The speech follows:

NATIONAL PRESS CLUB LUNCHEON SPEAKER, SENATOR ROBERT BENNETT (R–UTAH),

Washington, DC, July 15, 1998

Senator BENNETT. Thank you very much. I'm delighted to be here. And I have to introduce myself as ''the other BOB BENNETT.'' I know that name has been prominent in the Press Club in the past. You may even have heard from him. I point out that I'm the tall, skinny, bald BOB BENNETT. He is the short, fat, hairy BOB BENNETT—(laughter)—and that's how you keep us separated —keep us apart.

I first got interested in the Year 2000 problem I suppose the way anybody did; I read about it briefly, thought that's kind of an interesting sort of thing, more of a feature story issue, but not something to get particularly worried about. Oh, two years ago, 18 months ago, whenever the first stories first started filtering out, I was chairman of the—I guess I still am—chairman of the Senate Banking Subcommittee on Technology and Financial Services. Ever since I've been on the Banking Committee, I've been saying to the chairman we need to spend more time talking about technology, smart cards, digital signatures, those kinds of things.

And finally, AL D'AMATO said we're going to create a subcommittee on technology, make you the chairman so you'll leave us alone. (Laughter.) And we started holding hearings on those various things I've described, and then said to Robert, ''You know, let's hold a hearing on this Year 2000 problem. That'd be a subject that we could talk about to keep the subcommittee going.

And so we convened a hearing on the Year 2000 problem, focusing primarily on the

banking system, since that's the jurisdiction of the subcommittee, and heard for the first time some real details about the Year 2000 problem. And when it was over, CHRIS DODD, who had stayed through the whole hearing—and those of you in the Washington press corps know how unusual that is—turned to me and said, ''Mr. Chairman, we need another hearing. This is pretty scary stuff.'' And I said, you know, ''You're exactly right.'' We've now held eight hearings in that subcommittee, and each time we've gotten a little more scared.

Finally, in the early part of this year I went to Senator LOTT and Senator DODD went to Senator DASCHLE, and we said, ''This problem is serious enough it needs more than just the jurisdiction of the Banking Committee.'' And out of those conversations LOTT and DASCHLE got together, put through the resolution creating the Senate committee on the Year 2000. I became the chairman, CHRIS DODD became the vice chair, and in a(n) unprecedented, I think, certainly an unusual, move we picked up two ex officio members of that committee: TED STEVENS and ROBERT C. BYRD. So we have a direct pipeline into the Appropriations Committee, and we saw how that worked. Had the first meeting of the committee in which I outlined some of the problems. TED STEVENS leaned over and whispered in the ear of one of his staffers who was there, and the next day he had set aside $2¼ billion of extra money to help the federal government solve its Year 2000 problem. I'm not used to having that kind of horsepower on my committee—(laughter)—and I'm delighted to have Ted and Senator BYRD there, but also delighted that Senator DODD is the ranking Democrat and the vice chairman of the committee. He's probably going to join us a little later. But I wanted to publicly acknowledge the work that he's done on this.

We have tried to be the Paul Revere. But I tell people we're not yet Chicken Little. The British are, indeed, coming. This is a serious problem, and one that cannot be minimized. But I'm not yet ready to say that the sky is falling, as some people do on the web sites. And so we've tried to strike the balance between Paul Revere and Chicken Little. Now, in that capacity I wrote the White House and said we need some direction out of the executive branch and urged the president to appoint a Y2K czar. He didn't answer my letter, but he appointed a Y2K czar, which is even better—John Koskinen, appointed in February of this year. And when he came to see me and we chatted for a while, I said ''I'm very impressed with you. I think you're just what the president needs, only I have one problem: you're not high enough profile. Nobody's ever heard of you.'' We do need a higher profile here.

I called Erskine Bowles. Senator DODD joined me. Erskine came to my office. We sat there, the three of us, and talked about how we could get the president involved. And I am delighted that yesterday the president made a major address on this. If you missed it, go back and get a hold of it. Much as it hurts me, as a Republican, to have to say so, it was a superb speech. He touched all of the right bases, sounded all of the right notes. And this is a very, very welcome addition to the Y2K challenge.

Then I picked up the paper this morning and saw Robert Samuelson's column on this issue. As the Paul Revere of this particular challenge, it's nice to hear some additional hoofbeats on the side while I'm riding from every Middlesex village and town. (Soft laughter.)

Now the problem, of course, that we face is time. We can do a lot of things in the United States Congress, but we cannot legislate that the year 2000 will not come. We cannot pass a law saying we will only allow the year 2000 to occur once these fixes have been made. So we have to do something very, very dramatic. We have to do it in a number-one priority state of mind, and that's why the president's statement is so welcome, because he said this should be the number-one priority of every CEO in the country. And of course, he is joining Tony Blair and other international leaders who are saying the same thing.

Unfortunately, there are not enough of them saying this in enough countries, and the problem globally is worse than it is here. I'll get to that in a minute, but I wanted to make that very clear. While I'm focusing on the United States, I do not mean to minimize the difficulties of a national—pardon me, an international challenge here.

Well, when I get out here in these speeches and hearings and other presentations, the first thing that comes up is that people say, ''How did we get into this mess?'' We've gotten the quick answer in the introduction; they tried to save space, and so they held it down to just two digits for the date. But it's actually more generic than that, and I'd like to spend just a minute with you on the generic side of it, so that you get an understanding of exactly how serious this really is.

Go back with me a quarter century—or, living in Washington terms, four Senate elections—(laughter)—and take a look at the economy and where we were. We were in the Industrial Age. We were perhaps at the peak of the Industrial Age, the Industrial Age that was created because somewhere, somebody had a very simple idea, and that idea was interchangeable parts.

Before we had the notion of producing things that were interchangeable, every manufacturing operation was really producing a work of art. Everything was one of a kind. And then someone got the notion of interchangeable parts, and factories began to turn out things that were alike. And mass production was possible, mass distribution was possible, mass advertising came along. The Industrial Age came, and it revolutionized everything; created enormous wealth, enormous social problems but enormous opportunities.

And we were just beginning to get comfortable with all of that when somebody had another simple little idea, as revolutionary as the idea of interchangeable parts. It was the idea that said the switch in a transistor is either on or off. And, therefore, you can write code that can be read mechanically by a series of transistors strung together that show that they are either on or off. And that was the beginning of the what we now call digital code. And we began to get serious about it roughly 25 years ago.

And just as the concept of interchangeable parts transformed the world in the Industrial Revolution, the concept of digital code transformed the world in the Information Revolution. And we are living through that revolution in ways that future historians will look back on and comment about. But it has happened to us gradually enough that we don't really understand the incredible impact of that little notion that a switch can be either on or off, that a punch in an IBM card can either be in or out, or that a pit on a laser disk can be burned to either be there or not, only a micron wide so that on a disk this size, you can put the entire Encyclopedia Britannica and read it by virtue of digital code.

Enormously significant things have happened as a result of that revolution. We have now eliminated whole portions of the hierarchy of corporate organizations. Middle management is pretty well gone. Where did it go? It was replaced by computer technology, because the purpose of middle management was to manage information. Now, an individual on the factory floor can call up on a screen more information than he could have gotten from acres and acres of Harvard MBAs in the middle management prior to the invention of the computer and digital code.

And it has become ubiquitous this digital code. It is everywhere we look. One of the things that has happened—and I am going to focus on this for just a minute out of my business background, to help you understand how difficult the Y2K challenge is—is that we have changed manufacturing fundamentally, and not just by robotics and all of the things you think of in terms of computers.

Go back 25 years ago to General Motors, and they would have warehouses filled with steel and aluminum and glass and rubber and chrome and all the other things necessary to produce a car. And usually there would be about 90 days—(audio break). (Following audio break)—in these warehouses.

Along came digital code. Toyota pioneered Edward Deming's idea of ''just in time'' inventory. The warehouse holding the spare parts or the component parts of a Toyota consisted of the railroad car in which those parts arrived at the plant. And the railroad car pulls up to the side of the plant, they open the doors and start off-loading the parts directly onto the assembly line until the car is empty, and it is then pulled away and another car pulled up. You can imagine the savings—money, time, effort, capital, everything else—that has occurred because of ''just in time'' inventory. But you must understand that ''just in time'' inventory cannot work without computers. You cannot have enough middle managers with Harvard MBAs figuring it out to make it work if you don't have computers.

And quite frankly—I'll make one last comment on this and then move on. We Republicans will tell you that the good economy we're enjoying is because we won control of the Congress in 1994. The Democrats will say no, it's because Bill Clinton won control of the presidency in 1992. And then some of us will say no, it's because President Bush appointed Alan Greenspan chairman of the Fed back in the 1980s. I think that, of the three, has the most validity to it. (Laughter.)

But we have to recognize that one of the major reasons we have a good economy is because we have eliminated the old warehouses and those huge inventories.

We have made people more productive, we have smoothed out the curves of the business cycle, and we have done it all with computers. We are reaping the benefits, whether the Republicans claim credit or the Democrats claim credit, we are reaping the benefits in the economy of the introduction of the Information Age, and it is wonderful. And as I say, all of the incumbent politicians are taking credit for it, even though none of them deserve it.

That's the good news. The bad news is that that flaw that got put into the system in terms of two digits for a date instead of four, that used to be just part of a single software program and then several software programs and something that would get taken care of later, has become over the last 25 years, absolutely pervasive, and the flaw is everywhere.

Yes, it's in computer programs, software programs; it's also imbedded into those microcomputers that we call chips that are imbedded into machine tools, supertankers, valves on pipelines that control natural gas and, yes—get your attention—probably in the presses that print your magazines and newspapers. And the estimates we get on our committee are that between 2 (percent) and possibly 5 percent of those chips will fail.

And you don't know which 2 (percent) to 5 percent they are, and you don't know where they are.

But if all of a sudden the pipeline that is bringing natural gas to the generating plant that is creating the electricity that's lighting these lights shuts down because an imbedded chip in one of the valves fails, it isn't just a valve in a pipeline that has failed, the whole power grid is now at risk. And if enough of them fail in enough key places, you don't have any power.

Or, if enough of them fail in enough water purification plants, you don't have any water. Or, if enough of them fail in enough medical devices in an ICU in a major hospital, some people will die. I'm beginning to sound a little like Chicken Little, but I want you to know these are very real possibilities. And the only reason I am not Chicken Little yet is that we have 17 months in which to get from here to there.

Now, the number-one problem we face is denial.

People say, ''No, it can't possibly happen.''

If I may take a swipe at the National Press Club—I hope this is permitted—the McLaughlin Group—I was on a program with John McLaughlin. We talked about this. And then he played a few clips of our program to the McLaughlin Group and took a vote. And by three to one, they decided it was not a major problem. (Laughter.)

Awareness: Understanding of how serious the problem is, in fact, our biggest challenge. And that's why the president's statement is so welcome, because we can hold all the hearings we want, I can give all the speeches on the floor of the Senate I want, I've long since learned that if I had a secret document of highest national importance that I wanted to put someplace where no one ever would find it—(laughter)—I would put it in the Congressional RECORD. (Laughter.)

So we can't do this without a much higher level of awareness to get everybody involved and get everybody going. That's why, as I say, the president's speech was so welcome and so well done.

But the other thing that I get after I get the first question of how did we get into this mess and how pervasive it is—and I hope I've helped you understand how pervasive it is—I say again, as I said at the outset, what I have described in the United States applies in spades abroad. The only countries that I think are moving aggressively in this area so far, besides the United States, in no particular order: Canada, the United Kingdom, Australia, and Singapore. Now the Netherlands have just appointed a former CEO of Phillips (sp) to head their effort, and I think they will soon join that group. There may be some other countries that belong there. But specifically not in that top tier are Japan, Germany, France, and many of our other allies.

This is a global problem, pervasive in robotics, pervasive in embedded chips, pervasive in connections.

To give you a quick anecdote about that, I was at the Defense Department talking about this to Secretary Cohen and Deputy Secretary Hamre. And I—they said, ''Yeah, we're—you know, we're working very hard on this.''

And I said, ''It'll be real embarrassing if the screen goes blank on the year 2000.''

And Secretary Hamre said, ''Well, actually, Senator, that's not our biggest problem.'' He said, ''That's kind of good news. If the screen goes blank, we know we've got a problem. Our problem is if the screen stays up and we are receiving data that is wrong and we don't know it, and the whole database then becomes suspect.''

So those are the three areas. You've got the software problem that people can quickly understand, you've got the embedded chip problem that they probably haven't thought about, and then you have the connections problem that can ultimately kill you.

Well, back to the ''McLaughlin Group'' for just a minute. This is the question I get: Are we going to win or lose? Okay, is it going to be a catastrophe or are we going to get by? Give me an answer so I can cut to a commercial. (Laughter.)

All right. Let me leave you with this analogy. I think the president's statement yesterday was a stirring call to arms. And if I may say so without overdramatizing it, it's a little like announcing that we are at war. Now, this is a different war in that it has a set time period. But if you had asked Franklin Roosevelt on the 8th of December, 1941—Are we going to win or lose''—he would have said, ''We're going to win''—just the way Bill Clinton said yesterday, ''We're going to win. We're going to solve this problem.'' But would you in the press corps say, ''Oh, good. The president has told us we are going to win, so we can now ignore this story.'' And yet too many in the press are saying that: ''Oh, we've got a three-to-one vote on the 'McLaughlin Group' that says it's not going to be a big deal, so we can ignore this story.''

I believe we're going to win; that is I think that civilization as we know it is not going to come to an end. It's a possibility. Possibility, if Y2K were this weekend instead of 76 weekends from now, it would. But we have 76 weeks in which to try to get this under control. But we are, in a sense, at war against this problem. And you would not have said in the Second World War, ''Oh, because the president assures us we're going to eventually prevail, we do not need to cover Guadalcanal, Iwo Jima, Normandy, the Battle of the Bulge, or any of the rest of it.''

And so my plea to you here in the Press Club is: Do not ignore this story just because someone is reassuring you that it's going to work out all right. There are all kinds of stories out there that need to be covered and, most importantly, need to be exposed.

This is the ideal story for the Washington press corps. In covering it, you can affect the outcome. Isn't that what you're always trying to do? (Laughter.) Here's an opportunity! (Applause.)

Well, as you know, I've told you I've been immersed in this. It has become my obsession. I said that to the president yesterday as I congratulated him on his speech. And he said, ''Good. Somebody has to be obsessed.''

But I think I will quit at this point and respond to whatever questions you might have. Thank you very much. (Applause.) ●

CAMPUS CRIME REPORTING

● Mr. ABRAHAM. Mr. President, I rise to praise my colleagues for making Senator SPECTER's legislation on campus crime reporting a part of the higher education bill. This amendment to the higher education legislation, of which I was a cosponsor, will improve the safety and security of college students and employees across the United States.

Mr. President, when young people go to college they expect to face many challenges—academically, professionally and personally. But neither they nor their parents expect college kids to face high rates of crime, including violent crime. Unfortunately, on too many of our campuses this is exactly what they face. And the situation is made worse by the fact that many colleges and universities fail to accurately and fully report crimes committed on their campuses.

This amendment will close significant loopholes in current law that keep parents and prospective college students from getting the information they need to make a fully informed decision regarding where they should go to college. Thanks to this amendment, the Department of Education will be directed to require colleges to report criminal offenses that occur on sidewalks, streets, and other public lands on or adjacent to the campus, as well as offenses that occur in buildings that are owned by the college but used for commercial purposes, such as student food courts. Colleges that fail to compile accurate crime reports in accordance with these new requirements will suffer civil penalties.

Mr. President, a crime is a crime, whether it occurs in a college classroom, in the campus food court or on the sidewalk. A young man who is mugged, a young woman who is raped, any student who is accosted, beaten or murdered, suffers the same pain and loss regardless of which part of campus it is on which they are victimized.

Through this amendment we can see to it that students and their parents have the fullest possible information available to them regarding the safety of the campuses they are considering. This amendment also will provide colleges and universities with the extra incentive some of them may need to improve the safety and security of their students and employees. In 1994 alone, Mr. President, over 9,500 violent crimes were reported on our college campuses. And that figure does not include crimes colleges have not been required to report. We must do better. College is challenging enough, Mr. President, without adding to its challenges the unknown risk of crime.

Again, I congratulate my colleagues on including this important amendment in the higher education bill and look forward to the swift and efficient implementation of its language.●

THE BLACK SHIPS FESTIVAL OF RHODE ISLAND

● Mr. REED. Mr. President, I rise to pay tribute to the Japan-America Society of Rhode Island for its efforts in organizing this weekend's 15th annual Black Ships Festival of Rhode Island.

The Black Ships Festival takes its name from the Japanese word Kurofuné (Black Ships) which the residents of Shimoda, Japan used to describe the tar covered American ships which sailed into Shimoda harbor under the command of Rhode Island native Commodore Matthew Perry in 1854. As you know, Commodore Perry and officials in the Edo Period Shogunate negotiated the Treaty of Kanagawa, the first treaty between United States and Japan, which opened Japan to trade with the West and marked the beginning of the relationship between our two great countries.

Each summer, Newport, Rhode Island and Shimoda, her sister city, hold Black Ships Festivals to celebrate the friendship which began in 1854. Since its inception 15 years ago, the Black Ships Festival of Rhode Island has grown bigger and better every year, becoming a fixture on Newport's summer schedule and an event that the entire state eagerly awaits.

The Festival truly is one of Rhode Island's treasures. It provides residents and visitors to the Ocean State a unique and inexpensive opportunity to learn about and celebrate Japan's traditions and culture. As a result, I can honestly say that our state has gained a better awareness than most of Japanese culture.

The success of the Black Ships Festival of Rhode Island is now recognized far beyond the borders of the Ocean State. On July 1, the Japan-America Society of Rhode Island was selected to receive the prestigious Japanese ''Minister of Foreign Affairs' Citation'', which recognizes individuals and organizations that have contributed to friendship and understanding between Japan and other countries. Of the 9 organizations receiving this award in 1998, the Japan-America Society is the only one that is not Japanese.

Mr. President, as the Co-Chair of this year's Black Ships Festival of Rhode Island, I ask my colleagues to join me in recognizing the Japan America Society of Rhode Island for its tremendous efforts in organizing the Festival and strengthening the bond friendship between the United States and Japan.●

DETROIT LADY ROAD RUNNERS BASKETBALL TEAM

● Mr. ABRAHAM. Mr. President, I rise today to congratulate a very special group of girls in the metro Detroit area. The Detroit Lady Road Runners basketball team came in second place in the girls 12 and under division of the Police Athletic League. The girls are the only basketball team in the city that won second place in the state of Michigan in the girls 10 and under Amateur Athletic Union. They are now on their way to competing in the 1998 AAU National Championship in Orlando, Florida July 31–August 8th.

The Lady Road Runners, led by Coach Jeffery Cruse, have not only put forth a great effort toward sharpening their basketball skills, practicing four days a week, but also in raising funds by washing cars, selling hot dogs and holding raffles and walk-a-thons. These girls also work very hard in school and for their churches.

I want to wish this team the best of success in their effort to win a National Championship. I am confident that they will do an excellent job representing Detroit and the great State of Michigan.●

SAVING MEMORY

● Mr. ROBB. Mr. President, one of my constituents, Rabbi Israel Zoberman of congregation Beth Chaverim in Virginia Beach, VA, has recently published some thoughts arising from the release of a Vatican document. I would like to bring them to the attention of my colleagues, and ask that they appear in the CONGRESSIONAL RECORD at the appropriate juncture.

The article follows:

[From the Southern Virginia Jewish News, May 22, 1998]

SAVING MEMORY: A RABBI'S: RESPONSE TO THE VATICAN

(By Rabbi Israel Zoberman)

The recent release of the long awaited Vatican document on the connection between the Holocaust and the Catholic Church almost coincides with the annual observance this season of the Shoah's tragedy, the enormity of which has turned it into the most defining event of the soon concluding 20th century, the bloodiest of all times.

Whie the document acknowledges a measure of Christian culpability for Jewish suffering, it falls short of a full apology, for the over-a-decade study of the trying theme is fraught with painful and embarrassing confrontations for the church, touching upon the historical rejectionist attitude by Christianity of Judaism and the Jewish people. No wonder that there were high expectations that the reached conclusions would fully reflect and respect the record of a troubling past reality in light of the subject's magnitude, as well as the breakthrough conciliatory accomplishments of the Second Vatican Council in the 60s and the unparalleled contribution of Pope John II, building upon the foundation laid by his great predecessor Pope John XXIII in dismissing Jewish responsibility for Jesus' execution and honoring Abraham's descendants. At stake was also the church's own need to come to grips with a burden weighing upon its conscience in a way demanding absolution from sins of both commission and omission, allowing for a renewed sense of integrity and reconciliation in an era of an unprecedented ecumenical spirit, where no longer can any faith claim an imperialistic role.

It seems that the controversial document could not escape internal political pressure and compromise along with vestiges of pre-Second Vatican thinking. Perhaps some of us within both the Jewish and Christian communities got a bit carried away in believing that the significant victories of the past several decades were free from roadblocks and unforeseen detours. How else explain the skirting of two central issues that the authors were surely aware of their persistent presence, that now more than ever will beg an unequivocal response. The fact that traditional anti-Semitism has its origins in two millennia of the church's anti-Jewish teachings, demonstrates contempt in word and deed for both the spiritual heritage from which ironically Christianity emerged, and the people who bore witness to the covenant they refused to abandon when threatened with expulsion, forced conversion and death itself. Is there any doubt that the Holocaust and anti-Semitism are intimately interwoven?

The second bone of contention is the role of Pope Pius XII whose silence during the Nazi slaughter was far louder than his intervention in saving individual lives. While there is no surprise that the church would want to defend her ''infallible' 'leaders, it is the failure to exercise the vast moral authority invested in the Pope's high office which should serve as a cardinal yardstick in evaluating the legacy of any Holy Father, particularly under critical circumstances testing and mantle of true spiritual greatness. The related concern of the Vatican's alleged involvement in aiding the escape of Nazis at the war's end to South America and elsewhere, deserves an honest investigation and disclosure. Only when past ghosts are finally laid to rest, can memory be cleansed to serve the future.

I trust that the contested official statement is not in its final form, for history and our common God expect more from us and we can deliver in this generation of unfathomable lows but also dazzling heights, a gift of healing hope for those to follow. I ought to know for during 1985 to 1995 my congregation benefitted from generosity of the most gracious Church of Ascension in Virginia Beach, where we found a loving home in the only such Catholic-Jewish sharing bond in the world, a direct outcome of a radically changed climate.

The Polish Pope, John Paul II, with his unique personality and past, did more than all other pontiffs combined to bring the two faith groups closer to one another, coming as he does from the vineyard turned graveyard of European Jewry, experiencing and resisting the German occupation, and being particularly close to a surviving Jewish childhood friend. His heartfelt embrace of the Jews, beginning in an historic first visit by a Pope to a synagogue, in 1986 in Rome, addressing them as ''our dearly beloved brothers'' and ''our elder brothers,'' culminated in establishing diplomatic relations with the State of Israel in 1994. Before his extraordinary papacy comes to an end, he may yet surprise us with further bold steps to reassure us all that there is no retreat from the visionary path he so compassionately bequested to a suffering and expectant humanity.●

BICENTENNIAL OF THE PUBLIC HEALTH SERVICE

● Mr. FRIST. Mr. President, I rise to commemorate the bicentennial of the Public Health Service. On July 16, 1798, the Fifth Congress passed, and President John Adams signed, an Act which established the Public Health Service. The Public Health Service was originally established to provide medical care to sick and disabled seamen. Today the scope of their service includes educational activities, the provision of medical care, and activities on the forefront of biomedical research. I commend the members of the Public Health Service not only for their commitment to public health, but also their willingness to serve, and to contribute to the prevention and eradication of diseases.

Before being elected to the Senate in 1994, I was a heart and lung transplant surgeon for many years. The question I'm most often asked is, ''Why would you leave medicine for politics?'' My simple answer is: I didn't ''leave.'' I'm away only for awhile. The deeper answer is that while—on the surface—politics seems so different from medicine, the underlying motivation is exactly the same. Medicine exists to improve the life of another human being. The primacy of the patient is the central focus of all that physicians do. The same can be said of public service and public policy. They exist to serve the best interest of the citizenry. As a physician, I had the opportunity to help

one person at a time. As a United States Senator, I have the chance—every day—to improve the lives of millions of Americans in Tennessee and throughout the country, as well as help secure the future of the next generation.

The Officers of the Commissioned Corps of the Public Health Service have a long history of service to the American people. For two centuries, the physicians of the Public Health Service have been on the forefront of protecting America from disease. As Fitzhugh Mullen chronicled in his book ''Plagues and Politics,'' PHS officers have played a leading role in the control of infectious diseases—from plague control measures, to the eradication of smallpox, to the continuing response to outbreaks that threaten the public health, such as Legionnaire's disease and hantavirus.

As the leader of the Commissioned Corps, the Surgeon General has a critical role in promoting public health. I have been a strong supporter of the position of Surgeon General. I believe America needs a physician who will champion public health messages. We need a physician to focus national and international attention on public health problems. Reports from the Surgeon General have such credibility they are repeated by the media, health professionals, medical journals, and health educators. As chronic diseases such as heart disease and diabetes affect more Americans, we need a medical voice we can trust to talk to us about the need for prevention. We need a physician to educate the American people about the links between personal behavior and illness.

In Dr. David Satcher, America's new Surgeon General, we have the voice we need. I had the privilege of knowing Dr. Satcher from his time in Nashville. Because of his knowledge of population-based medicine, family medicine, and public health, he is eminently qualified to be our messenger to the American people on health issues. This past April, I had the privilege of introducing Dr. Satcher when he presented his first Surgeon General's report—a report on tobacco use among US racial and ethnic minority groups.

Surgeons General have led the fight against smoking for more than 30 years, and I'm pleased to see that the health consequences from tobacco use are also high on Dr. Satcher's agenda. Since the first report on the dangers of smoking by Surgeon General Luther Terry in 1964, there have been 24 reports on smoking, including the latest on smoking and minority populations. This most recent report notes the increasing rates of smoking among African-American and Hispanic teenagers, and cites the need for further research into prevention and cessation activities. Between 1991 and 1997, smoking among African American teenagers increased from 12.6 percent to 22.7 percent—an increase of 80 percent! Among Hispanic teenagers, smoking prevalence increased from 25 percent in 1991 to 34 percent in 1997. But teen smoking is not just a problem among minority populations. In 1997, cigarette smoking among white teenagers was nearly 40 percent—up from 31 percent in 1991. Teen smoking is a public health crisis that must be addressed.

There has been a great deal of attention given to reaching an agreement with the tobacco companies to reduce teen smoking. There is no silver bullet to stop young people from smoking. It will require a comprehensive approach that addresses three aspects: access, public health, and advertising.

Today, children and teenagers have ready access to cigarettes. Limiting that access includes everything from raising the price of a pack of cigarettes to restricting their ability to purchase cigarettes—including their access to vending machines. The cost must be high enough to discourage teenagers from smoking, but not high enough to create a black market.

The second aspect is the need for strong public health initiatives, including research, treatment, and surveillance. We must deal with the issue of nicotine addiction—through a better understanding of the physiology of addiction; through the best research programs—including basic science and behavioral research; and through effective programs that not only keep people from starting, but help them quit.

The third component is advertising. Society can no longer tolerate the specific targeting of young people by tobacco companies. This raises a Constitutional issue—the freedom to advertise versus what I regard as the wrongful targeting of children—8,9,10,12 years-old—in order to encourage them to smoke.

In the beginning of the 105th Congress, I was honored to assume the chairmanship of a newly established subcommittee on public health and safety, with jurisdiction over many agencies of the Department of Health and Human Services. In establishing the Subcommittee on Public Health and Safety, the Senate recognized the importance of public health. As Chairman, I've been able to bring public awareness to health issues facing this nation and to address the reauthorization of public health programs and agencies.

This past March, I was pleased to chair a subcommittee hearing on Global Health. We live in a global society. To paraphrase the Institute of Medicine's report, ''America's Vital Interest in Global Health,'' we can consider no site too remote, no person too removed, and no organism too isolated to affect our citizens.

Last January, I spent a week on a medical missionary tour of Africa, specifically Kenya, South Sudan, and the Democratic Republic of the Congo. I was struck by how medical care and services varied—from sophisticated Western-style hospitals with adequate laboratory capacity to small hospitals without electricity and running water. Several of the small hospitals are in remote areas that were virtually impossible to reach, except by small plane. While in Kenya, I heard about an ongoing epidemic of Rift Valley Fever where more than 300 people had already died. I saw first-hand patients with infectious health problems common in much of the world: tuberculosis, HIV, malaria and other parasitic infections.

The United States is uniquely poised to look beyond our borders and reach out to other countries. As a world leader in medical science, biomedical research, and pharmaceutical drug development, we can play a leadership role in global health issues through our federal agencies. However, the development of an effective global disease surveillance and response network requires the involvement of all countries and a partnership between the public and private sectors.

This past year, the subcommittee has also addressed the reauthorization of the Agency for Health Care Policy and Research (AHCPR), the nation's leading agency on health services research. The current debate on health care quality has led us to reexamine the federal role in supporting innovation and promoting quality in health care. We need solutions that are not only based on sound science but also serve the interests of patients. While there are many good private sector initiatives, there is a role for the federal government in implementing biomedical research results. As we reauthorize AHCPR, we will focus on health care quality, public-private partnerships, and advancing the science of quality improvement efforts.

This past March, I introduced ''The Women's Health Research and Prevention Amendments of 1998''—a bill with broad bipartisan support that addresses diseases that affect women. I'm very pleased that, since 1993, we have developed guidelines to include women and minorities in NIH-sponsored trials. However, we must continue to do more. We must continue to review the women's health research agenda as we set research priorities. We need to incorporate new scientific knowledge on women's health. The women's health bill reauthorizes NIH programs for vital research activities into the causes, prevention, and treatment for some of the major diseases affecting women—including osteoporosis, breast and ovarian cancer, heart disease, as well as research into the aging processes of women. Our bill also reauthorizes several programs at the CDC for prevention and education activities on women's health issues. CDC's programs provide critical health services in each of our States to detect, prevent, and diagnose diseases such as breast and cervical cancer. Also, CDC programs—such as those at the National Center for Health Statistics—provide data that can assist us in making informed policy decisions about health care.

In conjunction with Senators from both sides of the aisle, I introduced

''The Health Professions Education Partnerships Act''—a bill that represents an opportunity to help improve the quality of, and access to, health care for millions of Americans. The Bill reauthorizes the programs funded through title VII and title VIII of the Public Health Service Act. For many years, this legislation has helped our nation's schools of health better serve the health needs of their communities, and better prepare the practitioners of the future. The Bill strives to increase the number of health practitioners, including physicians, dentists, and nurses, in underserved areas and to improve the representation of minorities and disadvantaged individuals in the health professions. These programs have often been the assistance of last resort for many disadvantaged students seeking careers in health.

Equally important is the legislation's goal to meet the need of underserved communities, often in rural or inner-city areas. Programs funded through this bill support the infrastructure which facilitates the training and practice of health care providers in underserved areas. Patients in underserved areas depend on these programs for their health care. Training providers in these areas greatly increases the likelihood that they will work in these areas when they complete their education. The Bill would also allow the Secretary of HHS to make grants to certain health professions schools designated ''Centers of Excellence''—to assist these schools in supporting health professions education for under represented minority individuals. To qualify, these schools would: have a significant number of underrepresented minorities enrolled in the school; been effective in assisting minorities to complete their degree programs; and have been effective in recruiting underrepresented minorities as students and as faculty. ''Centers of Excellence'' are currently designated at Historically Black Colleges and Universities. This bill establishes Hispanic and Native American Centers of Excellence to increase the number of Hispanic and Native American health professionals.

Mr. President, for the past two centuries, the Public Health Service has been contributing unique ideas, ethics, and skills to public service. I congratulate the Public Health Service as it celebrates 200 years of public health and science. As the Public Health Service rises to meet the challenges of the next 200 years, I know they'll be every bit as successful as they have been in the past.●

HONORING MS. JAMIE FOSTER BROWN

● Ms. MOSELEY-BRAUN. Mr. President, it is my privilege to take a few moments to join the Midwest Radio and Music Association (MRMA) in recognizing the career achievements of Ms. Jamie Foster Brown. The MRMA will host a tribute dinner in Ms. Brown's honor during their annual conference in Chicago on July 23, 1998. I want to extend my heartfelt congratulations to Jamie Foster Brown for this prestigious award.

A native Chicagoan, Jamie Foster Brown graduated from Calumet High School and subsequently attended the University of Stockholm in Stockholm, Sweden. From these beginnings, Ms. Brown has become one of the most accomplished and respected women in the field of entertainment journalism. She publishes her own magazine, is heard on radio stations around the United States and England, and makes numerous television appearances each month. Jamie Foster Brown's success is testament to her talent and determination.

Jamie Foster Brown began her career in the entertainment business in 1979 when she founded the Washington Theater Group. Ms. Brown subsequently went to work for Robert Johnson's Black Entertainment Television, and was among the pioneers at this network in creating television programming for African-American viewers written, directed, and produced by African-Americans. Ms. Brown's talents were recognized at BET, as she ascended the ranks from executive secretary to a producer of the network's top-rated programs, ''Video LP'' and ''Video Soul.''

In 1988, Jamie Foster Brown struck out on her own and founded Sister 2 Sister Magazine as a monthly trade newsletter targeted at prominent women in the entertainment and media industries. Ten years later, Sister 2 Sister has emerged as one of the most powerful and respected monthly entertainment magazines, with a special focus on African-American celebrity news. The magazine is often the first to be granted interviews with major American entertainers, and often breaks stories that are later picked up by other news organizations.

In addition to publishing and writing for Sister 2 Sister Magazine, Ms. Brown has also recently written a book in honor of the late Betty Shabazz, entitled: Betty Shabazz: A Sisterfriend's Tribute In Words and Pictures. This loving tribute to Dr. Shabazz, published by Simon & Schuster, contains the recollections and anecdotes of friends and admirers including Maya Angelou, Myrlie Evers-Williams, and Ruby Dee.

Building upon the success of her magazine, Jamie Foster Brown is a regular entertainment reporter on BET, and makes many appearances on nationally syndicated news and entertainment television shows. Additionally, Ms. Brown hosts ''Sister 2 Sister Update,'' a syndicated, daily celebrity news feature that is carried nationwide on the Westwood One Radio Network. ''Sister 2 Sister Update'' is also broadcast twice a week throughout Great Britain over the British Broadcasting Company's Greater London Radio. Ms. Brown is also heard daily as a frequent celebrity guest on radio stations in Chicago, Detroit, Washington, D.C. and Los Angeles.

In a further display of her immense energy and enthusiasm for life, Ms. Brown also uses her considerable talents to better her community and our nation through volunteerism. Some of the many charitable organizations that have benefitted from Jamie Foster Brown's participation include the Duke Ellington School of Music, the Mount Sinai Parenting Institute and the Corporation Against Drug Abuse. For her professional and civic accomplishments, Ms. Brown has been honored by numerous organizations, including the Chicago League of Black Women, Anheuser Busch, Maurice Starr Productions, IMPACT and most recently, the Midwest Radio and Music Association. Along with balancing the demands of her career and charitable work, Ms. Brown remarkably finds time to remain a committed wife to Dr. Lorenzo Brown, as well as a loving and devoted mother to their two sons, Russell and Randall.

In closing, I would like to extend my most sincere congratulations to Jamie Foster Brown, a remarkable woman who is most deserving of this award. It is an important symbol of her exceptional talent, dedication, and vision, and I am pleased that she is being distinguished with this honor by the Midwest Radio and Music Association. I wish her, and her family, God's speed and much continued success in the future.●

CBO ESTIMATE ON S. 1754

● Mr. JEFFORDS. Mr. President, on June 23, 1998, I filed Report 105–220 to accompany S. 1754, the Health Professions Education Partnerships Act of 1998, a bill to consolidate and reauthorize health professions and minority and disadvantaged health education programs, and for other purposes. At the time the report was filed, an incorrect estimate was filed by the Congressional Budget Office. Since that time, the CBO has corrected its estimate. I ask that a complete copy of the revised CBO estimate be printed in the RECORD.

The estimate follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 24, 1998.

Hon. JAMES M. JEFFORDS,
Chairman, Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed revised cost estimate for S. 1754, Health Professions Education Partnerships Act of 1998.

This revised estimate supersedes CBO's estimate of May 28, 1998, and corrects an error in the assumed subsidy rate for Health Education Assistance Loans.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Cyndi Dudzinski, who can be reached at 226–9010.

Sincerely,

JUNE E. O'NEILL,
Director.

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

(Revised June 24, 1998)

S. 1754: HEALTH PROFESSIONS EDUCATION PARTNERSHIPS ACT OF 1998 (AS ORDERED REPORTED BY THE SENATE COMMITTEE ON LABOR AND HUMAN RESOURCES ON APRIL 1, 1998)

SUMMARY

S. 1754 would reauthorize, amend, and consolidate programs within the Public Health Service Act. These programs provide federal funding through grants and contracts for health professions students, schools, clinics, and demonstration projects. They focus on increasing the diversity and supply of health care providers and the care they provide to shortage areas, ethnic populations, and high-risk population groups. The legislation would authorize appropriations for fiscal years beginning in 1998 and, in most instances, ending in 2002. Assuming appropriation of the authorized amounts, CBO estimates that enacting S. 1754 would result in additional discretionary outlays of $334 million in 1999 and a total of $3.5 billion over the 1998–2003 period.

Subtitle C would reauthorize the Health Education Assistance Loan (HEAL) program through 2002. This provision would increase direct spending by $1 million in fiscal year 1998 and by $21 million during the 1998–2003 period. Because the bill would affect direct spending, pay-as-you-go procedures would apply.

S. 1754 would waive any state statutes of limitations that govern the repayment of loans by nursing and other medical students. This preemption of state statutory authority would represent a mandate as defined by the Unfunded Mandates Reform Act (UMRA). However, CBO estimates that the mandate would have no impact on the budgets of state, local, or tribal governments. The legislation does not include any private-sector mandates as defined in UMRA.

This revised estimate supersedes CBO's estimate of May 28, 1998, and corrects an error in the assumed subsidy rate for Health Education Assistance Loans.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of S. 1754 is shown in the following table.

	By fiscal year, in millions of dollars—					
	1998	1999	2000	2001	2002	2003
SPENDING SUBJECT TO APPROPRIATION						
Spending Under Current Law:						
Budget Authority[1]	828	0	0	0	0	0
Estimated Outlays	796	522	151	39	([2])	0
WITH ADJUSTMENTS FOR INFLATION						
Proposed Changes:						
Authorization Level	24	875	898	922	944	46
Estimated Outlays	0	334	724	862	924	618
Spending Under S. 1754:						
Authorization Level	852	875	898	922	944	46
Estimated Outlays	796	856	875	901	924	618
WITHOUT ADJUSTMENTS FOR INFLATION						
Proposed Changes:						
Authorization Level	24	852	852	852	851	40
Estimated Outlays	0	326	698	813	851	561
Spending Under S. 1754:						
Authorization Level	852	852	852	852	851	40
Estimated Outlays	796	848	849	852	852	561
DIRECT SPENDING						
Spending Under Current Law:						
Estimated Budget Authority	1	0	0	0	0	0
Estimated Outlays	1	0	0	0	0	0
Proposed Changes:						
Estimated Budget Authority	1	3	4	5	5	3
Estimated Outlays	1	3	4	5	5	3
Spending Under S. 1754:						
Estimated Budget Authority	2	3	4	5	5	3
Estimated Outlays	2	3	4	5	5	3

[1] The 1998 level is the amount appropriated for the year.
[2] Less than $500,000.

The costs of this legislation fall within budget function 550 (health).

BASIS OF ESTIMATE

S. 1754 would reauthorize and consolidate several programs within the Public Health Service Act. The initial and final year of the period of authorization would vary across programs. For years in which the bill specifies the amount authorized, CBO assumed that appropriations for each program would be made in the full amount of the authorization. For years in which the bill authorizes appropriation of such sums as may be necessary, CBO assumed that the specific amount appropriated in 1998 or authorized in a subsequent year would be increased by inflation and that the amount authorized would be appropriated.

With the exception of 1998, CBO assumed that all amounts authorized by S. 1754 would be appropriated by the start of the fiscal year and that outlays would follow the historical spending patterns of the respective agencies. The estimate assumes that amounts authorized for 1998 would be appropriated late in the year and that outlays would begin in 1999.

Title I—Health Professions Education and Financial Assistance Programs

Subtitle A—Health Professionals Education Programs. S. 1754 would reauthorize, amend, and consolidate the Health Professions Education Programs administered by the Health Resources and Services Administration (HRSA) and would include funding for behavioral or mental health providers and services under the Programs. It authorizes $237 million in 1998 and such sums as necessary for 1999–2002. Assuming appropriation of the authorized amounts CBO estimates Subtitle A would result in additional discretionary outlays of $107 million in 1999 and $985 million over the 1998–2003 period.

Subtitle B—Nursing Workforce Development. S. 1754 would reauthorize, amend, and consolidate the Nursing Workforce Development programs administered by HRSA. It authorizes $65 million in 1998 and such sums as necessary over the 1999–2002 period. CBO estimates that this subtitle would result in additional discretionary spending of $28 million in 1999 and $269 million over the 1998–2003 period.

Subtitle C—Financial Assistance

Chapter 1—School-Based Revolving Loan Funds. S. 1745 would reauthorize and amend HRSA's school-based revolving loan funds. It authorizes $8 million in annual appropriations for 1998 through 2002. CBO estimates this provision would result in additional discretionary outlays of $11 million in 1999 and $39 million during the 1998–2003 period.

Chapter 2—Insured Health Education Assistance Loans to Graduate Students. S. 1754 would reauthorize the HEAL program through 2002. Currently, the program's authorization expires at the end of 1998, and it is only authorized to make loans to students who received their first HEAL loan before 1995. Section 143 of the bill would reauthorize HEAL for five years, starting in 1998. The authorized loan limits would be $350 million in 1998, $375 million in 1999, and $425 million a year for 2000 through 2002. Loans to new borrowers would not be issued after 2000, and no loans would be insured under the program after 2005. CBO assumes that loan disbursements would equal the amount authorized. CBO estimates that the average subsidy rate for these disbursements would be about 1 percent. Therefore, this provision would result in $1 million in direct spending in 1998 and a total of $21 million during the 1998–2003 period.

For lenders who fail to meet certain performance standards, the bill would also reduce federal payments from 100 percent to 98 percent of losses incurred through loan defaults. In addition, the Secretary would have the authority to collect any unpaid balances from the estate of a deceased borrower. Finally, the proposal would grant a deferment to borrowers who furnish health care services to Indians through an Indian Health Service program.

Title II—Office of Minority Health

S. 1754 would reauthorize the Office of Minority Health within the Office of the Assistance Secretary. It would also require the Secretary to establish the Advisory Committee on Minority Health. It would authorize appropriations of $30 million for 1998 and such sums as necessary for 1999–2002.

It would also reauthorize the National Center for Health Statistics (NCHS) within the Centers for Disease Control and Prevention (CDC), providing such sums as necessary for 1999 through 2003. In addition, where current law provides a general authorization for NCHS to make grants to entities for data collection and analysis on racial and ethnic

populations, S. 1754 would authorize an additional grant program. The funding under this grant program would be used for collecting data specifically on Hispanics and major Hispanic subpopulation groups and on American Indians, and for developing special area population studies on major Asian American and Pacific Islander populations. For this additional grant program, it would authorize $1 million in appropriations for fiscal year 1998 and such sums as necessary for 1999–2002.

CBO estimates the provisions under Title II would result in additional discretionary outlays of $25 million in 1999 and $242 million during the 1998–2003 period.

Title III—Selected Initiatives and Title IV—Miscellaneous Provisions

S. 1754 would amend and reauthorize several other grant programs within HRSA, CDC, the National Institutes of Health, and the Administration on Aging. Except for a few small programs where the bill specifies the authorization for one or more years, Title III and IV would provide such sums as necessary for the entire period of the authorization for these programs. In addition, it would provide a permanent authorization of $0.5 million a year for the Foundation for the National Institutes of Health.

Assuming appropriation of the authorized amounts, CBO estimates that Titles III and IV would result in additional discretionary spending of $163 million in 1999 and $1.9 billion over the 1998–2003 period.

PAY-AS-YOU-GO CONSIDERATIONS

The Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. Because section 143 of the bill would affect direct spending, pay-as-you-go procedures would apply. The impact of this provision on federal outlays is shown in the following table. For the purposes of enforcing pay-as-you-go procedures, only the effects in the current year, the budget year, and the succeeding four years are counted.

SUMMARY OF PAY-AS-YOU-GO EFFECTS

	By Fiscal Year, in Millions of Dollars—									
	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Change in outlays	1	3	4	5	5	3	2	1	0	0[
Change in receipts	Not applicable									

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

S. 1754 would waive any state statutes of limitations that govern the repayment of loans to nursing and other medical students. This preemption of state statutory authority would be a mandate as defined by the Unfunded Mandates Reform Act. However, CBO estimates that the mandate would have no impact on the budgets of state, local, or tribal governments.

The bill would also authorize appropriations for a number of grant programs. State and local governments, as well as other public and private entities, would be eligible to receive funding from these grant programs as long as they meet certain grant conditions. Participation in these programs would be voluntary, and the overall budgetary effects to the participating governments would be favorable.

ESTIMATED IMPACT ON THE PRIVATE SECTOR

S. 1754 does not include any private sector mandates as defined in the Unfunded Mandates Reform Act.

Estimate prepared by: Federal Costs: Cyndi Dudzinski (226–9010); Impact on State, Local, and Tribal Governments: Leo Lex (225–3220); and Impact on the Private Sector: Julia Matson (226–2674).

Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.●

150TH ANNIVERSARY OF UNUM CORPORATION

● Ms. SNOWE. Mr. President, I rise today to honor a great Maine company that this week celebrates a remarkable milestone—its 150th Anniversary.

It was thirteen years before the Civil War began that the UNUM Corporation of Maine was founded as the Union Mutual Life Insurance Corporation. Since that time, UNUM has grown to employ more than 7,400 employees worldwide, and almost 3,800 in their World Headquarters in Portland alone—and has become an industry leader in the area of long term care disability insurance.

We in Maine are proud of UNUM's growth and longevity—outstanding achievements that don't happen by accident. But what is even more impressive is UNUM's commitment to providing an outstanding environment for its employees. Indeed, UNUM has been recognized by Fortune magazine as one of the nation's top 100 employers, and named as a leading ''family-friendly'' company by both Business Week and Working Mother magazines—evidence that UNUM's vision and innovation is garnering accolades throughout the professional world. In fact, UNUM has been on Working Mother's list a remarkable nine years in a row.

From the standpoint of one who has consistently fought in Congress for opening up possibilities and opportunities for women in business, as well as family-friendly legislation such as the Family and Medical Leave Act, I appreciate UNUM's commitment to fostering a work environment that recognizes that the values of hard work and family are not mutually exclusive. Indeed, UNUM's philosophy shows that responding to employees' concerns is not only the right thing to do, it's also sound business practice.

In particular, I applaud UNUM's commitment to providing safe, affordable child care options to employees. UNUM was one of the first companies in America to establish an on-site child care center, and UNUM subsidizes child care costs for qualified employees. Hopefully, this will blaze a trail that others in corporate America will be eager to follow.

UNUM also exemplifies the principles of corporate citizenship, and the corporation as a partner in the community. UNUM has consistently been a responsible and integral member of the Portland community—where most of their employees live—and UNUM will be celebrating their anniversary in part with a day-long community service effort involving thousands of employees and hundreds of projects. I commend UNUM's dedication to the community and to the use of corporate resources for the betterment of others, and believe that their model is one which should be replicated throughout the country.

This tone of corporate responsibility is set at the top, and UNUM President and Chief Executive Officer Jim Orr deserves much of the credit. A recent article in Portland's Maine Sunday Telegram elaborated on Jim's many talents, saying that, ''he preaches a gospel of shared goals, clear vision and intense focus''. A member of UNUM's board of directors stated, simply, ''The guy knows how to lead''. Obviously, he has used that skill to build a company that not only knows how to satisfy the bottom line, but to set an example for others to follow.

Mr. President, in Maine we like to speak of ''the way life should be'', and we cherish a quality of life that is second to none. UNUM exemplifies ''the way business should be'' and for 150 years—that's two-thirds of this nation's existence—it has been contributing to the effort to build an even better Maine in which to live, work, and raise a family. Again, I congratulate the leadership of UNNM, and the outstanding employees who have guaranteed the company's success over the past 150 years.●

CALLING ON JAPAN TO MAINTAIN AN OPEN MARKET FOR SECTORS FACING MARKET ACCESS BARRIERS IN JAPAN

Mr. BOND. Mr. President, I ask unanimous consent that the Finance Committee be discharged from further consideration of S. Con. Res. 88, and further, that the Senate proceed to its immediate consideration.

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

The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 88) calling on Japan to have an open, competitive market for consumer photographic film and paper and other sectors facing market access barriers in Japan.

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.

AMENDMENT NO. 3210

(Purpose: To make clarifying amendments.)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Missouri [Mr. BOND], for Mr. D'AMATO, proposes an amendment numbered 3210.

The amendment is as follows:

On page 3, line 7, strike ''implement'' and insert ''support''.

On page 3, line 13, insert ''paper and wood products,'' after ''glass,''.

On page 3, line 21, strike ''July 15, 1998'' and insert ''December 15, 1998''.

On page 4, strike lines 1 and 2, and insert: ''access to Japanese markets for consumer photographic film and paper.''.

In the preamble—

(1) strike the ninth whereas clause; and

(2) in the 11th whereas clause strike ''is committed to promote'' and insert ''promotes''.

Amend the title so as to read: ''A concurrent resolution calling on Japan to have an open, competitive market for consumer photographic film and paper and other sectors facing market access barriers in Japan.'',

Mr. BOND. Mr. President, I ask unanimous consent that amendment to the concurrent 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, the title amendment and the title, as amended, be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at this point in the RECORD.

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

The amendment (No. 3210) was agreed to.

The concurrent resolution (S. Con. Res. 88), as amended, was agreed to.

The preamble, as amended, was agreed to.

The Concurrent Resolution, with its preamble, reads as follows:

S. CON. RES. 88

Whereas the current financial crisis in Asia underscores the fact that the health of the international economic system depends on open, competitive markets;

Whereas structural reform in Japan is critical to the resolution of the Asian financial crisis;

Whereas for many years the United States Trade Representative has reported to Congress in the National Trade Estimate on numerous barriers to entering and operating in the Japanese market;

Whereas Japan's restrictive policies deny opportunities to United States companies and their workers seeking access to Japanese markets;

Whereas the United States Trade Representative has engaged over the last several years in an intensive review of the Japanese distribution system;

Whereas on June 16, 1996, the United States Trade Representative found that the Government of Japan created and tolerated a market structure that impedes United States exports of consumer photographic film and paper;

Whereas the European Union has sought to remove these same barriers to distribution that restrain European exports to Japan;

Whereas it is important that United States companies and workers not be disadvantaged by other countries following Japan's model of protecting its market through a closed distribution system and other market access barriers;

Whereas the Government of Japan has consistently stated that it is committed to deregulation, transparency, nondiscrimination, and open distribution systems accompanied by vigorous enforcement of competition laws;

Whereas the Government of Japan stated in recent proceedings of the World Trade Organization on consumer photographic film that it promotes distribution policies that make the Japanese market more open to imports and to actively discourage restrictive business practices; and

Whereas fulfilling these public statements would benefit both United States trade and Japanese consumers, significantly raising the standard of living in Japan: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) calls upon the Government of Japan to live up to the standards it has set for open competitive markets;

(2) calls upon the Government of Japan to fully support the representations that it made to a dispute settlement panel of the World Trade Organization regarding deregulation, transparency, nondiscrimination, open distribution systems, and vigorous enforcement of competition laws with respect to consumer photographic film and paper as well as other sectors, such as autos and auto parts, glass, paper and wood products, and telecommunications, that face similar market access barriers in Japan;

(3) urges the President, the United States Trade Representative, and other appropriate officers of the executive branch to exercise fully existing authority to achieve these objectives; and

(4) requests the President to report to Congress, not later than December 15, 1998, and not less frequently than every six months thereafter, regarding access to Japanese markets for consumer photographic film and paper.

The title was amended so as to read: ''A concurrent resolution calling on Japan to have an open, competitive market for consumer photographic film and paper and other sectors facing market access barriers in Japan.''

AUTHORIZING THE ADMINISTRATIVE ASSISTANT TO THE CHIEF JUSTICE TO ACCEPT VOLUNTARY SERVICES

Mr. BOND. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of calendar No. 461, S. 2143.

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

The clerk will report.

The bill clerk read as follows:

A bill (S. 2143) to amend chapter 45 of Title 28, U.S. Code, to authorize the Administrative Assistant to the Chief Justice to accept voluntary services, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

S. 2143

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION FOR VOLUNTARY SERVICES.

Section 677 of title 28, United States Code, is amended by adding at the end the following:

''(c)(1) Notwithstanding section 1342 of title 31, the Administrative Assistant, with the approval of the Chief Justice, may accept voluntary personal services to assist with public and visitor programs.

''(2) No person may volunteer personal services under this subsection unless the person has first agreed, in writing, to waive any claim against the United States arising out of or in connection with such services, other than a claim under chapter 81 of title 5.

''(3) No person volunteering personal services under this subsection shall be considered an employee of the United States for any purpose other than for purposes of—

''(A) chapter 81 of title 5; or

''(B) chapter 171 of this title.

''(4) In the administration of this subsection, the Administrative Assistant shall ensure that the acceptance of personal services shall not result in the reduction of pay or displacement of any employee of the Supreme Court.''.

Mr. BOND. Mr. President, I ask unanimous consent that the committee substitute amendment be agreed to, the bill be considered read the third time, and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at this point in the RECORD.

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

The committee amendment was agreed to.

The bill (S. 2143), as amended, was considered read the third time, and passed.

URANIUM HEXAFLUORIDE USED IN RECYCLING

Mr. BOND. Mr. President, I ask unanimous consent that the Senate now turn to S. 2316, introduced yesterday by Senator MCCONNELL.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2316) to require the Secretary of Energy to submit to Congress a plan to ensure that all amounts accrued on the books of the United States Enrichment Corporation for the disposition of depleted uranium hexafluoride will be used to treat and recycle depleted uranium hexafluoride.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3211

Mr. BOND. Mr. President, I send an amendment to the desk on behalf of Senator FORD and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Missouri [Mr. BOND]for Mr. FORD, proposes an amendment numbered 3211.

The amendment is as follows:

On page 2, line 3 strike all after ''hexafluoride'' and insert the following:

consistent with the National Environmental Policy Act.

(b) LIMITATION.—Notwithstanding the privatization of the United States Enrichment

Corporation and notwithstanding any other provision of law (including the repeal of chapters 22 through 26 of the Atomic Energy Act of 1954 (42 U.S.C. 2297 et seq.) made by section 3116(a)(1) of the USEC Privatization Act (104 Stat. 1321–349)), no amounts described in subsection (a) shall be withdrawn from the United States Enrichment Corporation Fund established by section 1308 of the Atomic Energy Act of 1954 (42 U.S.C. 2297b–7) or the Working Capital Account established under section 1316 of the Atomic Energy Act of 1954 (42 U.S.C. 2297b–15) until the date that is 1 year after the date on which the President submits to Congress the budget request for fiscal year 2000.

(c) SENSE OF THE SENATE—It is the Sense of the Senate that Congress should authorize appropriations during fiscal year 2000 in an amount sufficient to fully fund the plan described in subsection (a).

Mr. FORD. Mr. President, I am pleased to join in cosponsoring S. 2316, which earmarks a portion of Treasury funds obtained through the privatization of the United States Enrichment Corporation for the clean up of depleted uranium hexafluoride, or so-called uranium ''tails.'' The legislation earmarks roughly $335 million for this cleanup, preserving authority to conduct the treatment and recycling of depleted uranium tails.

However, none of the money will be spent unless Congress appropriates such funding. I am pleased that my amendment has been added to this bill which puts the Senate on record in support of fully appropriating funds to implement a cleanup plan to be developed by the Secretary of Energy. It is a two way street, Mr. President. I agree that the Secretary of Energy should immediately develop a plan to clean up the depleted uranium tails. But I also believe Congress should respond quickly to appropriate the necessary funds.

Three weeks ago, the Administration announced that the USEC Board had approved the privatization of USEC through an initial public offering of stock in the new Corporation. This will be the largest federal privatization effort since Conrail, establishing a $2.4 billion private corporation to enrich uranium for nuclear power production and compete in world markets. I have been involved in this effort for more than a decade. It directly affects 2,200 workers in Paducah, Kentucky who work at one of the two gaseous diffusion plants operated by USEC.

As part of this transaction, a $1.7 billion ''exit dividend'' is to be paid to the Treasury. This legislation assures that an appropriate portion of those funds will be available for clean up at the existing USEC facilities. And it also puts the Senate on record in support of future appropriations for clean up purposes.

Among the reasons for obtaining these assurances is the employment situation at the two USEC plants. One of the great myths some are promoting is the suggestion that the privatization is causing 600 job losses at the two plants over the next two years. This is simply not the case. The job losses were apparently likely regardless of whether privatization went forward. As part of the privatization agreement, the new corporation has agreed to operate both existing plants through January, 2005. However, some job reductions will occur. The job impact was likely in the event that USEC remained as a government corporation and did not privatize. And it is equally likely in the short-term if privatization goes forward. They are a reality and we must deal with this situation. The privatization transaction provides $50 million to begin clean up efforts at the two plants. This legislation adds to that amount, earmarking an amount necessary to fully fund the estimated clean up liability for all uranium tails acquired since July 1993. Once enacted, it will be the responsibility of the Secretary of Energy to develop an adequate clean up plan. And just as importantly, it will be the responsibility of the Congress to appropriate funds which are sufficient to fully implement the clean up plan.

I believe any individuals who lose their jobs at either of the existing two facilities should be given a preference in obtaining these clean up jobs, and I will be urging the Administration to provide such a preference in the months ahead.

A second great myth associated with privatization is that there is a large pot of money laying around which could be spent on clean up. That is not the case. First of all, upon privatization, the authority to spend the so-called ''exit dividend'' will expire unless we pass this bill. Time is of the essence. Second, even if the authority is preserved, none of the exit dividend may be spent unless Congress appropriates the funds. That is why our Sense of the Senate language is important. When we return to this issue in the future, it is essential that Congress act expeditiously to appropriate the funds. So I think this is a timely bill and strongly support its adoption.

I also support the privatization decisions which have been made by the Administration and by the USEC Board. There is little question that the current course of action is in the best long-term interest of the employees at the Paducah facility. As a private corporation, USEC will be more efficient. It will be better suited to enter into long-term contracts and recapture its world market share for uranium enrichment. It will be better suited to implement the technology of the future, which many believe will be the Atomic Vapor Laser Isotope Separation (AVLIS) technology. And it will be better suited to provide for the long-term employment of the workers at the two current facilities.

Mr. President, I urge the passage of this bill and will continue to work with my colleagues to get this proposal to the President's desk in the days ahead.

Mr. MCCONNELL. Mr. President, this bill will ensure that the Department of Energy is not stuck with a massive unfunded mandate as a result of the privatization of the United States Enrichment Corporation. This bill will ensure that both the workers at Paducah, Kentucky and Portsmouth, Ohio as well as the environment are made a top priority.

Last month the Administration, the Department of Energy and the USEC Board came to a decision on privatization of the United States Enrichment Corporation. The deal, however, put USEC first and taxpayers, workers and the environment last.

As proposed, the USEC privatization will have a devastating effect on jobs. The Administration has stated that 600 jobs will be lost in the first two years and admits that there is a real possibility that additional job losses would occur in the following years. Something must be done to alleviate the economic impact of this legislation, and I am hopeful that a serious clean up effort will mitigate some of the job losses.

Unless we prevent this transfer of funds from USEC to the General Treasury, taxpayers will be stuck with a massive unfunded environmental liability if this funding doesn't remain dedicated to clean up. Considering the Department of Energy's track record on cleaning up its own depleted uranium tails that have been stockpiled for the past forty years, it would be a big mistake if we allowed USEC to add an additional 9,000 canisters to the tens of thousands of canisters in the Department's inventory without the funds already earmarked and allocated to cleaning up this environmental nightmare.

I am willing to accept the amendment by Senator FORD in order to secure the nearly $400 million. Senator FORD's amendment adds language to ensure that this clean up effort remains consistent with National environmental Policy Act and adds a brief Sense of the Senate that Congress should fully fund the President's request.

I want to be absolutely clear, this amendment simply restates current law. This bill like any other, is subject to NEPA standards. However, it must not be an excuse for the Administration to slow down the implementation of a clean up plan.

Mr. President, I welcome the support of Senator FORD for this legislation and I look forward to passing it in a timely fashion so the Administration does not privatize USEC until we can ensure that workers and the environment in Western Kentucky and Southeast Ohio are made a top priority.

Mr. BOND. Mr. President, I ask unanimous consent that the amendment be agreed to, the bill be considered read the third time, and passed, and the motion to reconsider be laid upon the table, all without any intervening action or debate.

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

The amendment (No. 3211) was agreed to.

The bill (S. 2316), as amended, was considered read the third time, and passed, as follows:

S. 2316

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. UNITED STATES ENRICHMENT CORPORATION.

(a) PLAN.—The Secretary of Energy shall prepare, and the President shall include in the budget request for fiscal year 2000, a plan and proposed legislation to ensure that all amounts accrued on the books of the United States Enrichment Corporation for the disposition of depleted uranium hexafluoride will be used to commence construction of, not later than January 31, 2004, and to operate, an onsite facility at each of the gaseous diffusion plants at Paducah, Kentucky, and Portsmouth, Ohio, to treat and recycle depleted uranium hexafluoride consistent with the National Environmental Policy Act.

(b) LIMITATION.—Notwithstanding the privatization of the United States Enrichment Corporation and notwithstanding any other provision of law (including the repeal of chapters 22 through 26 of the Atomic Energy Act of 1954 (42 U.S.C. 2297 et seq.) made by section 3116(a)(1) of the United States Enrichment Corporation Privatization Act (104 Stat. 1321–349), no amounts described in subsection (a) shall be withdrawn from the United States Enrichment Corporation Fund established by section 1308 of the Atomic Energy Act of 1954 (42 U.S.C. 2297b–7) or the Working Capital Account established under section 1316 of the Atomic Energy Act of 1954 (42 U.S.C. 2297b–15) until the date that is 1 year after the date on which the President submits to Congress the budget request for fiscal year 2000.

(c) SENSE OF THE SENATE.—It is the sense of the Senate that Congress should authorize appropriations during fiscal year 2000 in an amount sufficient to fully fund the plan described in subsection (a).

ORDERS FOR FRIDAY, JULY 17, 1998

Mr. BOND. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 9 a.m. on Friday, July 17. I further ask that when the Senate reconvenes on Friday, immediately following the prayer, the routine requests through the morning hour be granted, and the Senate then proceed to stacked votes ordered with respect to the HUD-VA appropriations bill.

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

PROGRAM

Mr. BOND. Mr. President, for information of all Senators, there will be a series of votes beginning at 9 a.m. on Friday, with all succeeding votes in the series be limited to 10 minutes each. Hopefully, that series of votes will include passage of the HUD-VA appropriations bill. The Senate is also expected to consider the legislative appropriations bill. However, any votes ordered with respect to Legislative Branch bill will be postponed to occur on Tuesday, July 21, at a time to be determined by the two leaders.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. BOND. Mr. President, if there is no further business to come before the Senate, I now ask the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 11:55 p.m., adjourned until Friday, July 17, 1998, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate July 16, 1998:

DEPARTMENT OF THE TREASURY

JOHN D. HAWKE, JR., OF THE DISTRICT OF COLUMBIA, TO BE COMPTROLLER OF THE CURRENCY FOR A TERM OF FIVE YEARS, VICE ALLAN LUDWIG, RESIGNED.

DEPARTMENT OF STATE

JOHN MELVIN YATES, OF WASHINGTON, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF CAMEROON.