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Senate

(Legislative day of Tuesday, September 29, 1998)

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

The PRESIDENT pro tempore. Today's prayer will be offered by the Reverend Allen P. Novotny of the Society of Jesus, Gonzaga College High School, Washington, D.C.

We are pleased to have you with us.

PRAYER

The guest Chaplain, Father Allen P. Novotny, S.J., offered the following prayer:

Almighty God, we acknowledge at the beginning of these deliberations that all power in our world is from You. May Your power become a reality in our lives and in our Nation: the power of You, our God—the power of truth, the power of justice, the power of holiness, the power of love.

May this power fire the hearts of the women and men of this Senate. May this power reach out through their hands to build up our Nation, to overcome all obstacles, to cross all distances, to give life and hope and care and dignity to each other and to all our people.

In a spirit of humility, may they accept the gift of this power and the responsibility it enjoins on them. May they commit themselves to the hard work of freedom and justice—the work of You, our God, which leads to understanding. Amen.

RECOGNIZING THE SENATE'S GUEST CHAPLAIN

Mr. HATCH. Mr. President, I am pleased to introduce to my colleagues Reverend Allen Novotny. He is our guest Chaplain today and I hope some of you will take the time to introduce yourself. Fr. Novotny is the President of Gonzaga College High School, a Jesuit high school for boys located only a few blocks away from the Capitol.

In 1821, the Jesuits founded Gonzaga which operates in the tradition of teaching and learning established by the founder of the Jesuits, Ignatius of Loyola. Throughout our nation's history—through the Civil War, the Great Depression, the World Wars, and the civil rights movement, Gonzaga has maintained its commitment to teaching and learning in the heart of Washington's inner-city, on a street it shares with leaders of business and government, on a block where it ministers to and comforts the least fortunate of society.

It is both ironic and appropriate that Gonzaga be situated just a few blocks from our nation's Capitol Building. Gonzaga, like so much of the United States, is a melting pot. Gonzaga combines the largest minority population of any Jesuit High School in the United States with one of the lowest tuitions in the Washington area. Gonzaga is a realized mission of social and economic diversity that offers all who attend the school a glimpse of the full life spectrum. Gonzaga combines service to the community—taking the form of service projects both in the U.S. and abroad, student-assisted tutoring for underprivileged children, and an on-campus, student-assisted McKenna Center & Food Wagon homeless shelter—with top academics and athletics. Gonzaga is, in other words, a complete educational experience.

I hope my colleagues will take the time to learn more about Gonzaga's special character. Gonzaga has served the Washington community well and, under the steady leadership of Fr. Novotny, I believe it will continue to do so.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

Mr. GORTON. Mr. President, this morning the Senate will immediately resume consideration of the Department of Defense authorization conference report. There are 3 hours remaining for debate, with a vote occurring on adoption of the conference report at 12 noon. Following that vote, the Senate may begin consideration of S. 442, the Internet bill, under the consent agreement reached last night. The Senate may also begin consideration of the Cold Bay-King Cove legislation under a 6-hour time agreement, or any other legislative or executive items cleared for action. Therefore, Members should expect rollcall votes throughout Thursday's session as the Senate continues to consider important legislation prior to sine die adjournment. I thank my colleagues for their attention.

STROM THURMOND NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999—CONFERENCE REPORT

The PRESIDENT pro tempore. The clerk will report the conference report.

The assistant legislative clerk read as follows:

Conference report to accompany H.R. 3616 to authorize appropriations for fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The Senate resumed consideration of the conference report.

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

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

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

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The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. GORTON). Without objection, it is so ordered.

Mr. THURMOND. Mr. President, today the Senate considers the conference report to accompany the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999. I want to thank all the members of the conference committee for their hard work and cooperation. To give the Members of the Senate some insight into the complexity and magnitude of the work involved in the conference process, we had to reconcile nearly 1,000 funding differences and craft compromises for over 570 legislative issues in disagreement between the House and Senate bills. The conferees succeeded in settling the many difficult issues in this complex process only by putting the national interest above all others. I particularly want to thank Senator LEVIN, the ranking member of our committee, for his continued leadership and support.

I also want to acknowledge the contributions of Senator COATS, Senator KEMPTHORNE, and Senator GLENN. This is their last defense authorization bill. On behalf of the committee and the Senate, I wish to thank them again for their dedication to the national security of our country and their support for the young men and women who serve in our armed services. We will miss their valuable counsel next year.

Mr. President, I also want to acknowledge the contribution of the staff of the Senate Armed Services Committee in bringing our conference process to closure. We on the committee are very proud of our staff. They are a model of bipartisan competence and everyone in this body is indebted to them for their dedication to excellence. I ask unanimous consent that a list of the members of the staff be printed in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. THURMOND. Mr. President, I also wish to recognize the members and staff of the Senate Defense Appropriations Subcommittee. We have worked more closely together this year than ever before. I want to express on behalf of the Armed Services Committee our appreciation to Chairman STEVENS and to the members and staff of the Defense Subcommittee for their cooperation and support.

Working together, we have produced a bill which keeps the Department of Defense on a steady course and is consistent with the balanced budget agreement. It is a sound bipartisan approach to some very difficult policy issues. This is reflected in the fact that for the first time in memory, all of the conferees in both committees have signed the conference report. This bill sends a strong signal to our men and women in uniform and their families that we are fully committed to supporting them as they perform their dangerous missions around the world.

The conference report addresses three challenges to maintaining a strong national defense in the 21st century: the training and readiness of our military forces, the modernization of weapon systems and other defense equipment, and the preservation of quality of life programs for our military personnel and their families. The conference report, for example, authorizes funding of increases to a number of readiness accounts totaling nearly $1 billion above the administration request.

We have also authorized the construction of six new ships, increased the procurement of new tactical aircraft, and provided an increase of approximately $90 million for advanced space systems and technologies as well as an increase of about $132 million for strategic force upgrades.

In the conference, we have authorized a 3.6-percent pay raise and a comprehensive series of accession and retention bonuses and special pay to reduce the financial sacrifices involved with military service. In order to enhance the quality of life for our service personnel and their families, we have authorized increases totaling $666 million above the request for military construction and family housing.

The conferees have also crafted a number of management initiatives to ensure that limited budgets are managed more efficiently and that the burdens of service for our men and women in uniform are kept to a reasonable level. The bill includes provisions to ensure that commercial sole-source spare parts are procured in a cost-effective manner. The conference report authorizes a series of initiatives to test new health care benefits for Medicare-eligible military retirees. The bill also requires the Department of Defense to address the Year 2000 information technology issues in a more comprehensive fashion.

Mr. President, this conference report is a sound and balanced approach to meeting our national security needs with constrained resources. It is my hope that the Senate will vote to adopt the report overwhelmingly.

This is the 40th defense authorization conference report on which I have worked since joining the Armed Services Committee in 1959. It is the fourth and last as chairman of the committee as I have announced my intention to step down as chairman at the end of this year while retaining my seat on the committee. I regard my work on the committee to ensure a strong national defense as among the most important accomplishments of my public service. My tenure as chairman over the last 4 years has been the culmination of that service. Words cannot express the pride and appreciation I feel for the honor my colleagues have bestowed by designating this authorization bill as the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999.

Looking back over the national security issues that have challenged the United States over the past 40 years and turning forward to the 21st century, I am very concerned about maintaining our ability to meet foreign policy ambitions with declining defense resources. If we do not change course soon, present and projected defense investment levels will expose the people of the United States to unacceptable levels of risk. We will have abdicated our fundamental responsibility to provide for a strong common defense.

We are in the midst of a period of unprecedented commitment of U.S. military forces in peacetime. The United States is using military forces to respond to a growing spectrum of international aggression, ethnic unrest, and domestic conflict. The operational tempo of each of our services is at an all time high as we respond in a sustained manner to crises in Africa, the Persian Gulf, and the Balkans. As we struggle with supporting these operational deployments, the backlog of modernization and real property upgrades continues to climb. Moreover, the imperative of maintaining our defense technological superiority over the next 10 to 15 years will soon generate a further requirement for substantial new investment.

Yet our defense spending is declining. The authorization for new budget authority in this conference report is $270.5 billion, which is $2.6 billion below the inflation-adjusted level for fiscal year 1998. We are currently spending barely more than 3 percent of our gross domestic product on defense. This level is consistent with defense spending during the Depression-ridden 1930's. That level is projected to decline even further to 2.6 percent by 2002. We cannot hope to meet increasing foreign policy commitments with such declining resources.

We are already seeing the effects of this mismatch of resources and commitments. The Chiefs of the military services indicate that they have now hit rock bottom in readiness and modernization. We are seeing increasing spare parts shortages, increased cannibalization, declining unit operational readiness rates, cross-decking of critical weapons, equipment and personnel. Personnel retention rates—especially for skilled personnel such as pilots—are in a steep decline.

These trends have been evident for the last several years. The leadership in the military services, distinguished observers in the defense community, such as former Secretary of Defense Schlesinger, and even the political leaders in the Department of Defense have been sounding warnings of increasing peril for our national security. Now even the President has been forced by the mounting evidence to recognize

the impact of underfunded administration requests and to call for an immediate increase in defense spending. In a letter to me last week, the President called for a series of steps to redress defense underfunding, including an increase of $1 billion in fiscal year 1999 and a process for revising the programmed spending in the future years defense plan. I commend the President for this proposal and look forward to working with the administration to make it a reality. I ask that the full text of the President's letter be printed in the RECORD at the end of my statement.

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

(See exhibit 2.)

Mr. THURMOND. The extent of current and future readiness problems were laid out in stark detail Tuesday morning by the Joint Chiefs of Staff at a hearing before the Senate Armed Services Committee. The service Chiefs all testified on the manner in which our current readiness is fraying and the long-term health of the Total Force is in jeopardy. While additional funding in fiscal year 1999 will help address the most pressing short-term concerns, it is imperative that we provide significant continuing increases in funds for modernization above that for additional pay and benefits. The Marine Corps estimates a shortfall of $1.8 billion per year in modernization over the Future Years Defense Program under the current administration projections. The Army estimates an annual $3 to $5 billion per year shortfall during the same period. We must embark on a course of sustained increases in defense investment over the next several years.

Mr. President, at the beginning of this Congress, I called for developing a clearer strategic context within which to design an effective, affordable national defense to meet our foreign policy commitments. The need for this clarity has never been greater. With the belated recognition by the President of the need for increased defense resources, we have an opportunity to free the determination of U.S. strategy from being a by-product of the budget process. As I said in February 1997, let us seize the day. We must work in a cooperative, bipartisan fashion to avert a certain military decline. The first step in that process is the rapid and overwhelming approval of this conference report.

EXHIBIT 1

STAFF OF THE ARMED SERVICES COMMITTEE

Charlie Abell, John Barnes, June Borawski, Philip Bridwell, Les Brownlee, Stuart Cain, Monica Chavez, Chris Cowart, Dan Cox, Madelyn Creedon, Rick DeBobes, Marie Fabrizio Dickinson, Katy Donovan, and Shawn Edwards.

Jon Etherton, Pamela Farrell, Richard Fieldhouse, Maria Finley, Jan Gordon, Creighton Greene, Gary Hall, Larry Hoag, Melinda Koutsoumpas, Larry Lanzillotta, George Lauffer, Henry Leventis, Peter Levine, and Paul Longsworth.

David Lyles, Steve Madey, Mike McCord, Reaves McLeod, John Miller, Ann Mittermeyer, Bert Mizusawa, Cindy Pearson, Sharen Reaves, Cord Sterling, Scott Stucky, Eric Thoemmes, Roslyne Turner, and Banks Willis.

EXHIBIT 2

THE WHITE HOUSE,
Washington, September 22, 1998.

Hon. STROM THURMOND,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Preserving our military's readiness has been the top priority of my national security program. Since I first took office, increasingly greater shares of our Defense budget have been allocated to ensuring that our armed forces are ready to respond and have the tools to accomplish their mission. Although we have done much to support readiness, more needs to be done.

This year alone, important steps have been taken to protect military readiness. For FY 1998, we worked with the Congress to secure both an additional $1 billion in military readiness funds through a budget reprogramming and a $1.85 billion emergency funding package to cover the costs of unanticipated operations in Bosnia and Iraq. For FY 1999, my Administration proposed a Defense budget request that increased funding for personnel and operations programs over the 1998 appropriated levels and a $1.9 billion emergency budget amendment to fund the ongoing peacekeeping operations in Bosnia. Passage of this emergency funding is critical to avoid a readiness crisis in the fiscal year that begins on October 1. I strongly urge the Congress to approve these requests.

We also have done a lot on our own to address the burden on our men and women who have been deployed at higher than anticipated rates. We established standards for deploying units and intensively manage the force to minimize the possibility that units exceed these standards. We cut Air Force temporary duty assignments in half. And we are cutting back, by 25 percent over the course of five years, the total number of exercise days. Additionally, we reduced or replaced some overseas deployments with units on stand-by in the United States.

My Administration has sought ways to get a greater readiness return from each dollar spent implementing better management practices, cutting overhead, and reducing base infrastructure. Working together, we can identify methods for eliminating wasteful spending. I need your help in addressing these objectives if we are to ensure that our men and women in uniform receive the best training and equipment possible in the most cost effective manner. They deserve no less.

I recently met with Secretary Cohen and the Commanders-in-Chief of our U.S.-based and overseas forces to receive a status report of the units under their command. As always, the dedication of our civilian and military leaders to the troops' well being was clearly evident in their reports. I was particularly satisfied to hear that our forces are capable of carrying out our national military strategy and meeting America's defense commitments around the globe. They are, in the words of the Chiefs, the best-trained and best-equipped forces in the world.

Notwithstanding this assessment of our overall posture, the Secretary and the Chiefs identified several concerns that must be addressed to sustain high military readiness levels. To address our readiness needs, I believe several steps are in order:

1. We must act now to provide additional resources in FY 1999 for operations and personnel programs important to military readiness. This includes resources to minimize shortfalls in certain critical spare parts, Navy manpower, and Army unit training activities. I have asked key officials of my Administration to work together over the coming days to develop a fully offset $1 billion funding package for these readiness programs.

2. I have instructed the Office of Management and Budget and the National Security Council to establish with Secretary Cohen and General Shelton a separate process within the context of the FY 2000 joint budget review that will examine the longer-term military readiness issues raised at my meeting with the CINCs. Meeting this challenge will require a multi-year plan with the necessary resources to preserve military readiness, support our troops, and modernize the equipment needed for the next century. I anticipate this examination will result in a series of budget and policy proposals for the FY 2000 Defense budget and the Future Years Defense Program. Our challenge is to strike a balance between providing sufficient resources for military readiness while maintaining fiscal discipline and appropriate funding levels for other investments necessary to sustain a growing economy.

The security of the nation depends on our military forces' ability to quickly, effectively, and successfully prosecute their mission. Ensuring that these forces are trained and ready is a priority upon which we all can agree.

Sincerely,

BILL CLINTON.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. First, Mr. President, it is a pleasure for me to join with the chairman of the Armed Services Committee in bringing to the floor the Strom Thurmond National Defense Authorization Act for fiscal year 1999. It is truly a fitting honor for our chairman that this conference report which is named in his honor has been signed by not only all the Senate conferees on both sides of the aisle, but also by all conferees from the House National Security Committee on both sides of the aisle.

I am sure that I speak for all of our colleagues in saying just how much we appreciate the leadership that Senator THURMOND has provided on this bill, the fair and even-handed manner in which he has managed the committee not just on this bill, but as long as he has been a chairman of this committee, as well as how much we appreciate the lifelong dedication that he has brought to the national defense. We look forward to many, many more years of working with him. He has expressed his appreciation for having the bill named after him. I just want to tell him that it is my very strong personal feeling that it has been a pleasure for me to work with him to bring forward measures such as this that are so critical to the national defense. We will miss him as chairman, but we will not miss him as a member of the committee, because he will continue to be an active member of the committee.

Mr. President, this is also the last defense authorization act for several of our colleagues on the committee, as Senator THURMOND has noted. Senator GLENN, Senator COATS and Senator KEMPTHORNE will all be leaving us at the end of this year. All three have

made great contributions to the work of the committee and to the national security of our country. They will be greatly missed, and I know many of us will have more to say about that during the next few days.

The conference report that we bring to the Senate today is the product of more than 6 months of work, including a full 2 months in conference with the House. Overall, we have reached a bipartisan conference report that advances the security of our country in the best interests of the men and women in uniform. I am particularly pleased that on a series of issues that were important to the Department of Defense and the Department of Energy and to the administration, we have been able to eliminate or modify positions that would have led to a veto.

First, we eliminated a series of House provisions that would have barred any exports of satellite or related technology for launch in China, and also the provision which we eliminated also would have prohibited participation in launch failure investigations. So we have eliminated a number of provisions. However, the conference report does provide that the licensing of applications to launch satellites in China will be returned to the State Department. However, that return will be delayed until March 15, 1999. In the interim, there is a requirement for the Secretary of State to plan for a more timely and orderly licensing process.

The only effective difference since January of 1996 between the licensing being done by State or Commerce has been the long delays that exist in the State Department's processing of license applications. The delay in the effective date of the transfer from Commerce to State will give the administration time to take steps to speed up the State Department's licensing process and provide the new Congress with an opportunity to review the transfer in a less politically heated atmosphere after the elections.

It is critical for American security that American satellites continue to be launched in large numbers, both because, as Senator BOB KERREY has pointed out, most of our intelligence information comes from open sources, such as satellites, and because the satellite transmission of programming is critically important to forcing open closed societies whose dictatorships threaten American interests. The compromise embodied in the bill before us should protect our national security interests by helping to ensure that American satellites will continue to be launched in appropriate numbers and in a timely and secure manner.

Second, we have eliminated a House provision that would have prohibited the Secretary of Energy from even considering the less costly of the two options for renewed tritium production. It would have achieved this result by prohibiting the production of tritium in a commercial facility, even though tritium is widely used in commercial products and is not a special nuclear material like uranium or plutonium.

The provision in the bill will provide a level playing field for the selection of an option for future tritium production by delaying the implementation of the decision made by the Secretary of Energy to select either option until October 1, 1999, the beginning of the next fiscal year. This approach will provide Congress an opportunity to review the Secretary's decision—whatever it may be—before it is implemented. It will have no adverse impact on our national security because we will not need a new source of tritium for several years. The Secretary's decision could not be implemented in any case until funding is approved by Congress, and Secretary Richardson has indicated that delaying implementation of his decision until October 1 of next year will have ''minimal impact'' on future tritium production.

Third, we eliminated a House provision that would have prohibited gender-integrated training at the basic training level in all three military services. This prohibition was opposed by the uniformed military, opposed by a majority of the Senate, and it would have led to a veto by the President. The bill does contain provisions that, (a), direct the Secretaries of the military departments to provide for separate and secure housing for male and female recruits with sleeping areas separated by permanent walls and served by separate entrances; and, (b), prohibit afterhours access to sleeping areas by unescorted members of the opposite gender. These provisions are consistent with, and would in fact codify, the current policies of the Department of Defense.

Fourth, a Senate provision was dropped that would have made it harder for the Secretary of Defense to downsize and close unneeded military facilities. I recognize that many Members on both sides of the aisle supported this provision. However, the provision was strongly opposed by the civilian and uniformed leadership of the Department of Defense and would have led to a veto. I am personally hopeful that in the next session of Congress we will at least authorize one additional round of base closings.

Mr. President, I am also pleased with the outcome on several issues that have been important to the Department of Defense, including the adoption of a Senate provision authorizing Bosnia funding on an emergency basis; the decision to fund cooperative threat reduction programs at a level close to the one proposed by the administration; and, most importantly, the decision to fund a 3.6-percent pay raise for our men and women in uniform. Nothing is more important to our national security than their well-being and high morale.

Mr. President, this conference report is the product of hard-fought compromise, and I cannot say, of course, that I support every provision in it.

I would have preferred that we not fund seven C–130s and one F–16 that the Department of Defense says it doesn't want and doesn't need.

I would have preferred that we not cut into the readiness of our Armed Forces by reducing the Department's operations and maintenance accounts below the administration's budget request.

I would have preferred that we not include a House provision that unfairly singles out a single facility by prohibiting the China Ocean Shipping Company from leasing a facility at the Long Beach Shipyard that was closed in the last base closure round.

I would have preferred that we not reach outside of our jurisdiction to resolve a complicated tax dispute between two States.

On balance, I think we have succeeded in reaching a fair resolution on the issues in the conference. I am convinced that we have a very solid compromise of the major issues, and I hope the President will sign the bill.

Again, I will conclude by thanking our chairman, Senator THURMOND, for the open and the bipartisan manner in which he conducted the conference on this bill. Senator THURMOND and his staff have made every effort to include the minority at every stage of the deliberations. I also thank the chairman and ranking minority member of the House National Security Committee, Congressman SPENCE and Congressman SKELTON, for their cooperation in bringing the conference to a successful conclusion.

Of course, none of this could have been accomplished without our staffs. I want to express the appreciation we all feel on the committee to the staffs of the Armed Services Committee—both the majority and minority staffs—for the extraordinary effort they put into this bill and this conference. It was a long, long conference. It just simply would not have been possible to achieve the result we did without the outstanding work of David Lyles, Les Brownlee, and their dedicated supporting cast. I also extend my thanks to the staff of the House National Security Committee and the House and Senate legislative counsels for their help in preparing this large bill.

Mr. President, it is a good conference report. It strengthens our national security. I know our colleagues will be pleased to join me in supporting the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I wish to express my appreciation to Senator LEVIN for the kind words he said about me. He has done a fine job. We could not have done this work without him.

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. THURMOND. 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. THURMOND. Mr. President, I ask unanimous consent that the time for the quorum call be charged equally to both sides.

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

Mr. THURMOND. 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. FORD. 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. FORD. Mr. President, I believe I have 90 minutes.

The PRESIDING OFFICER. That is correct.

Mr. FORD. Mr. President, I regret that I am here this morning making my remarks, because in this piece of legislation we have preempted the States and their ability to tax. Under the Buck Act, it gave that responsibility to the States. But in here we are preempting the States.

The Presiding Officer understands the problem between Oregon and Washington. But Oregon has passed a law that exempts residents of Washington. So, therefore, the States have worked out their problem. Here, the Federal Government, Big Brother, has to tell the States what they can do. I think it is highly unfair. I think it is unprecedented where the Armed Services Committee has gone around the Finance Committee.

Senators can't come to this floor and say that the chairman of the Finance Committee says this section is all right. It has to go before the Finance Committee. The Finance Committee is the committee of jurisdiction here—not the Armed Services Committee.

The occupant of the Chair is one of the finest jurists in the Senate, having been, I believe, Attorney General of his State.

The law says:

> No person shall be relieved from his liability for any income tax levied by any State, or by any duly constitutional taxing authority therein having jurisdiction to levy such a tax by reason of his residing within a Federal area, or receiving income from transactions occurring or services performed in such areas, and such State, or taxing authority, shall have full jurisdiction and power to levy and collect such tax in any Federal area within such State to the same extent and with the same effect as though such area was not a Federal area.

That is the Buck Act.

The Armed Services Committee has altered or broken that statutory provision. They preempted the States. They went around the Finance Committee. Now they are altering the Buck Act.

As I said, Mr. President, this is regrettable, for me to think that my colleagues would have such a sweetheart deal that when the State of Kentucky and the State of Tennessee were in the process of negotiation and working out their problems, they were told it would be worked out in Washington and not to worry about it; therefore, the negotiations were cut off, and the sweetheart deal was started.

I want to call the attention of my colleagues to the provision in the defense authorization bill which I consider to be one of the most misplaced, misguided, and unfair proposals I have seen in my 24 years in the Senate. I am referring to a tax proposal in this defense authorization bill which preempts the State of Kentucky from administering its own tax laws.

Let me repeat that.

I am referring to a tax provision in the defense authorization bill. We are now establishing, Mr. President, the precedent that defense authorization bills can become vehicles for State tax provisions.

The Finance Committee has jurisdiction over tax issues in the Senate. But the Finance Committee did not report this legislation. The Finance Committee did not report any other legislation with this tax proposal contained in this defense authorization bill. It is not even a Federal tax issue. This is not a Federal tax issue. This is a tax provision in this bill which dictates to States how they administer State income tax laws.

The Republican Party has always been States rights. That is one of their long suits. I have heard in campaigns all my life, ''States rights.'' And now in this bill you are preempting States rights. We are preempting my State, the Commonwealth of Kentucky, from deciding for itself how to administer its own income tax laws on work performed within the State of Kentucky by private sector employees. It is an outrage that my colleagues who are conferees from the other side of the aisle agreed to include this provision in the final bill.

Mr. President, Fort Campbell is a military facility which straddles the Kentucky-Tennessee border. It is located partially in Trigg County and Christian County in my State and partially in Tennessee. There are Federal employees working at Fort Campbell who reside in both Kentucky and Tennessee, and there are private sector employees working at Fort Campbell, some on a full-time basis, some on a contractual or part-time basis.

How would you like to be sitting at the table having lunch, and the worker across the table from you, working for the same company, doing the same job as you, pays no tax, but you have to pay yours?

For Kentucky employees, there is no exemption from the sales tax in Tennessee. That will be the next bill that will be in the Chamber, and I am going to encourage my colleagues to do that so all you have to do is show your driver's license and where your residence is and you are exempt from Tennessee sales tax, which is one of the highest in the Nation.

According to groups such as the Federation of Tax Administrators, which is an organization comprised of the top revenue officials from all 50 States and the District of Columbia, it is a fundamental principle of taxation that workers are taxed where the work is performed. Workers are taxed where the work is performed. That is the basic rule. There are exceptions to the rule, of course, but the exceptions come from agreements negotiated between States—negotiated between States. States can agree to a variety of ways to treat income tax earned within one State's borders by out-of-State residents—States rights. And we recognized that a long time ago even in the Buck Act.

But this is for the States to decide. Congress should keep its nose out of their business. But not this Congress, not this majority, and not this defense authorization bill. Do I want to be against the Strom Thurmond defense authorization bill? Of course, I do not. I do not want to be against the Wendell H. Ford aviation bill either. But what is in this bill is not right.

That is my responsibility as a Senator, and I am surprised that my colleague on the other side, who is a major player with the Republican Party, did not defend his constituents rather than his party. We are losing $4 million a year. Not even the Congressman from the First District raised a peep about it. Who are you supposed to be representing up here in this body or in the other body? You are supposed to be representing your State and your constituency.

A dispute arose when some Tennessee workers objected to paying income taxes on work performed within the borders of Kentucky. Legislation was introduced in the House to impose a Federal solution on the States. Hearings were held. The House Judiciary Committee held a hearing on April 17th of last year on this issue. The Senate Governmental Affairs Committee held hearings on October 24 of last year. To my knowledge, the Senate Armed Services Committee held no hearings. The Senate Armed Services Committee held no hearings on this issue during either session of this Congress. The reason is obvious. Because the Armed Services Committee has absolutely no jurisdiction over this issue—none. The conferees for this defense authorization bill have no business attaching language which preempts State tax laws as part of this defense authorization bill. It has no place in this piece of legislation.

Let's go back now to the House hearing of last April. What kind of testimony did that committee hear? It heard that the Kentucky tax structure met all appropriate constitutional standards for fairness and nondiscrimination. The committee was

told that the ability of States to define their own tax structure within the bounds of the Constitution was ''one of the core elements of sovereignty preserved to the States under the Constitution.''

That committee was told that if Congress jumped in and preempted State laws in this case, ''It will by definition create a preferred class of taxpayers that benefits at the expense of all other taxpayers. Currently, all workers, public and private, in Kentucky are subject to the same rules. This should not be disrupted by the Congress without a strong policy rationale.''

The House committee was also told that the proposal to grant special status to Tennessee residents violated the spirit of the Unfunded Mandate Act of 1995. I wonder how many colleagues on the other side in 1995 voted for the unfunded mandate bill. Are you going to fund this unfunded mandate? No. It breaks that law. You are taking away by mandate funds that belong to my State. It is under the unfunded mandate law of 1995.

Do you think this bill is not going to go to court? You can bet your sweet bippy that once the President signs it, if he does, this portion of the bill will be in court. It is wrong. It is wrong from the start; it is wrong from the middle; it is wrong from the end.

The House committee was also told that if Congress believes that the impact of Federal workers employed on installations crossing the borders of two States should be offset, it should provide the funding necessary to offset the cost imposed on the States affected and not just preempt legitimate taxing authorities. This is what the committee was told, but the committee didn't pay any attention to that—it is our way or nothing. What Kentucky is getting is nothing. I am not going to allow this bill to go forward without having an opportunity, which I am doing now, to express to my colleagues my outrage and what their outrage should be. Pretty soon, I will tell you, 240 installations that are subject to the same law—subject to the same law, 240 in this country—will want the same. So what are you going to look forward to next year? Are you going to preempt all these States? Be fair. Be fair.

So, let me repeat one section of that sentence that the committee in the House was told:

> . . . if Congress feels the impact of federal workers employed on installations crossing the border of two states . . . should be offset, it should provide the funding necessary to offset the costs imposed on the states affected and not just preempt legitimate taxing authority.

Mr. President, the Senate Governmental Affairs Committee heard similar testimony during its hearing last August. The Senate Armed Services Committee, however, heard no such testimony because it held no such hearings and has no jurisdiction over this issue. Nevertheless, without any floor debate, a provision was snuck into the House version of the defense authorization bill on the House floor. Where was my Congressman from the First District when that happened to his employees and to his State? I do not know where my House colleagues from Kentucky were on this issue when this issue arose. Maybe they did not notice. Maybe they were just asleep at the switch. But either way, not a finger was lifted by my colleagues on the other side of the aisle to stop it.

Let me explain to my colleagues why this provision is so offensive. The provision preempts the State of Kentucky from applying its own tax laws to Federal workers at Fort Campbell. But it does not stop there, it is broader. It also exempts private sector employees, such as contractors, who perform work at Fort Campbell. Private contractors are exempt. This goes well beyond any precedent which exists anywhere else in Federal law.

What it means is that when two contractors bid on work to be performed on the Kentucky side of Fort Campbell, a Tennessee contractor is going to have a built-in advantage over a Kentucky contractor because of the special exemption written into this defense authorization bill. Can you imagine what other Senators would be doing this morning if this had happened to them? Maybe, with this precedent, it will. Why don't we try to prevent it?

The House language is overly broad and, in my opinion, extremely unfair. No such language is included in the Senate version of the bill. However, I was very concerned about the attempt to sneak this in. I informed my colleagues on the committee of my strong concerns with this tax proposal on June 25th, when the bill was debated on the floor.

I should say at this point that the ranking member of the committee, the Senator from Michigan, acknowledged that tax issues had no place in a defense authorization bill, he shared my concern about the broad and misguided precedent set by this proposal to preempt State tax laws, and he fought to keep it out of the final bill. However, apparently among my colleagues on the other side of the aisle, this was a done deal. I do not believe the issue was even a matter of serious discussion by the Republican conferees. So here we are on the Senate floor with a sweetheart deal being cut on a tax provision which preempts State law. I thought I had seen it all.

Mr. President, this tax provision raises serious constitutional questions. This provision raises serious constitutional questions. Back in June I inserted in the RECORD a legal memorandum from the Office of the Attorney General of Kentucky which raised serious constitutional questions about this tax preemption proposal. I am sure the issue of whether to challenge the constitutionality of this tax preemption proposal will be studied carefully, should this bill become law—and it will be.

Let me also inform my colleagues that revenue officials in my State have had contact with those in the State of Tennessee. This is the right way to solve this problem. The States of Washington and Oregon did. But once the word was out that Congress will attempt to impose a Federal solution regarding this matter, the discussions between the two States became a moot point. Why should they spend the time and resources necessary to reach a compromise agreement when Congress was considering preempting State law and imposing a solution which favors just one side? What incentive was there to negotiate? Big Brother in Washington was acting to impose a solution on a matter which is normally left to the States to work out on their own.

Mr. President, a sweetheart deal cut by the Republican conferees is going to cost my State about $4 million per year. Let there be no mistake about my Governor's opposition to this tax preemption provision. Let me read from his letter of June 25, 1998, from Governor Paul Patton of Kentucky.

> I am writing to express Kentucky's opposition to the Thompson amendment currently under consideration by the United States Senate. The issue addressed by this legislation is the tax imposed by the Commonwealth on income earned within Kentucky by non-resident federal workers.

He went on to lay out why.

> We are attempting to resolve this issue through a joint effort with Tennessee Governor Sundquist's office. This matter is one to be settled at the State level, and not an issue for Congress to resolve.
>
> * * * * *
>
> In closing, I would like to reiterate the Kentucky taxation of non-residents working in Kentucky is fair in concept and in practice. To exempt all non-residents or a special group of non-residents who work in Kentucky would be unfair. If I may provide you with any other information on this issue, please feel free to contact me.

Mr. President, I ask unanimous consent the letter from the Governor of Kentucky be printed in the RECORD.

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

> COMMONWEALTH OF KENTUCKY,
> OFFICE OF THE GOVERNOR,
> *Frankfurt, KY, June 25, 1998.*
>
> Hon. WENDELL FORD,
> *U.S. Senate, Washington, DC.*
>
> DEAR SENATOR FORD: I am writing to express Kentucky's opposition to the Thompson amendment currently under consideration by the United States Senate. The issue addressed by this legislation is the tax imposed by the Commonwealth on income earned within Kentucky by non-resident federal workers.
>
> The protest by federal workers employed at the Fort Campbell military base against the imposition of the Kentucky income tax has centered on their contention that the tax is unfair to them. All income in question is taxed the same whether earned by a resident or non-resident of Kentucky. Only the income earned within the Commonwealth of Kentucky is taxed. It would be unfair to tax the income of residents but not the income of non-residents doing the same job in the same place. Indeed, if this were the case, it would make sense for Kentucky residents

working on the Fort Campbell base to move to Tennessee to avoid the Kentucky income tax.

On June 23, 1998, Kentucky's Attorney General sent to me a memorandum which offers a compelling and reasonable argument against the constitutionality of the Thompson amendment under the Commerce Clause. A consequence of this amendment would be its detrimental impact on the Kentucky communities which surround Fort Campbell. The legislation would exceed Congressional authority and would likely be proven as unconstitutional. Congress granted the states the power to tax income, and on several occasions, courts have held that states can assess an income tax to nonresidents who earn their income in that state. Congress can reduce the states' power of taxation, but only through an amendment within the confines of the Commerce Clause.

We are attempting to resolve this issue through a joint effort with Tennessee Governor Sundquist's office. This matter is one to be settled at the state level, and not an issue for Congress to resolve. The impacts of the Thompson amendment would far surpass Fort Campbell. These impacts would extend to the employees of every federal institution within close proximity with state borders.

In closing, I would like to reiterate that Kentucky's taxation of non-residents working in Kentucky is fair in concept and in practice. To exempt all non-residents or a special group of non-residents who work in Kentucky would be unfair. If I may provide you with any other information on this issue, please feel free to contact me.

Sincerely,

PAUL E. PATTON,
Governor.

Mr. FORD. The State preemption provision in this bill is also strongly opposed by the Federation of Tax Administrators. Let me read from a June 24, 1998 letter from Mr. Harley T. Duncan, the executive director of the Federation of Tax Administrators:

I am writing concerning amendments to the defense appropriations bills (S. 2057) which would preempt Oregon, Kentucky and Nebraska from applying their income tax to certain federal employees (and in some cases, contractors) who work in those states, but reside in bordering states with no income taxes. . . .

These amendments have been separately considered earlier in the 105th Congress as H.R. 1953. The Federation of Tax Administrators is an association of the principal tax administration agencies in the 50 States, the District of Columbia, and New York City. The Federation has adopted a policy which urges that the Senate reject H.R. 1953 and any similar language which may be offered as an amendment to other bills.

We ask the Senate to recognize that, throughout the history of income taxation, both federal and state, workers are taxed by the jurisdiction where the work is performed. This system represents the keystone of taxation. State lawmakers make exceptions to this system to address individual circumstances where strict adherence to the principle leads to undesirable results. In particular, in those instances where sound fiscal and government policy permit, a State may enter into a reciprocal agreement with a bordering State to permit taxpayers to file a single return in the state of residency. Kentucky is at the forefront of such policy refinements.

They are complimenting my State for being in the forefront of these policy refinements.

—it has a reciprocal agreement with every border state that has a broad-based individual income tax.

The U.S. Constitution imposes substantive constraints on the manner in which such states may structure their tax systems. These constraints ensure that the tax imposed meets fundamental tests of fairness in dealing with all citizens. The Constitution further ensures that state taxes do not impose undue burdens on interstate commerce or the federal government. The taxes imposed by these states meet these requirements and should not be preempted. There is no question that states have the legal authority to tax the income of nonresidents working in Oregon, Kentucky or Nebraska.

It goes on, Mr. President:

Further, the language exempts from taxation wages paid to Federal workers . . . but it exempts from tax income paid to all individuals who work in Fort Campbell in Kentucky.

A special group is set out here.

This encompasses not only contract employees who work directly for the military . . . but also includes employees of private companies who run businesses or perform services on the bases, including such businesses as restaurants and road maintenance firms. These are clearly private business people, not federal workers.

But they are exempt. They are exempt under this particular bill.

Finally, and most importantly, if change is necessary, it is within the power of the states involved to do so. This is an issue for state lawmakers, not federal lawmakers. Lawmakers in Kentucky and Tennessee are seeking an equitable solution that would not impose an unfair burden on either state. . .

The Senate is faced with an opportunity to demonstrate good faith to the principles contained in the Unfunded Mandates Act of 1995.

And we are not doing that.

If Congress feels that the impact of federal workers employed on installations crossing the borders of two states—one of which imposes an income tax and another which does not—should be offset, it should provide the funding necessary to offset the costs imposed on the states affected.

This is signed Harley T. Duncan, executive director, Federation of Tax Administrators.

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

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

FEDERATION OF TAX ADMINISTRATORS,
Washington, DC, June 24, 1998.

Hon. WENDELL H. FORD,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR FORD: I am writing concerning amendments to the defense appropriations bills (S. 2057) which would preempt Oregon, Kentucky and Nebraska from applying their income taxes to certain federal employees (and in some cases contractors) who work in those states, but reside in bordering states with no income taxes (Washington, Tennessee and South Dakota).

These amendments have been separately considered earlier in the 105th Congress as H.R. 1953. The Federation of Tax Administrators is an association of the principal tax administration agencies in the 50 states, the District of Columbia and New York City. The Federation has adopted a policy which urges that the Senate reject H.R. 1953 and any similar language which may be offered as an amendment to other bills.

We ask the Senate to recognize that, throughout the history of income taxation, both federal and state, workers are taxed by the jurisdiction where the work is performed. This system represents the keystone of taxation. State lawmakers make exceptions to this system to address individual circumstances where strict adherence to the principle leads to undesirable results. In particular, in those instances where sound fiscal and government policy permit, a state may enter into a reciprocal agreement with a bordering state to permit taxpayers to file a single return in the state of residency. Kentucky is at the forefront of such policy refinements—it has a reciprocal agreement with every border state that has a broad-based individual income tax. (The agreements do not function with non-income-tax states such as Tennessee, and thus they are not applicable in this case.)

The U.S. Constitution imposes substantive constraints on the manner in which states may structure their tax systems. These constraint ensure that the tax imposed meets fundamental tests of fairness in dealing with all citizens. The Constitution further ensures that state taxes do not impose undue burdens on interstate commerce or the federal government. The taxes imposed by these states meet these requirements and should not be preempted. There is no question that states have the legal authority to tax the income of nonresidents working in Oregon, Kentucky or Nebraska.

What this amendment would do is carve out a special tax benefit for workers who choose to live (or move) out of state that would not be available to any other employees working at the same location. Further, the language exempts from taxation wages paid to federal workers in Oregon and Nebraska—but it exempts from tax income paid to all individuals who work in Fort Campbell in Kentucky. This encompasses not only contract employees who work directly for the military (for instance, school teachers), but also includes the employees of private companies who run businesses or perform services on the base, including such businesses as restaurants and road maintenance firms. These are clearly private businesspeople, not federal workers. If Kentucky is to be preempted from taxing individuals who work for the federal government, we particularly urge the Senate to adopt language that more precisely defines the matter. (More precise definitions have been offered by the Pentagon.)

Finally, and most importantly, if change is necessary, it is within the power of the states involved to do so. This is an issue for state lawmakers, not federal lawmakers. Lawmakers in Kentucky and Tennessee are seeking an equitable solution that would not impose an unfair burden on either state. Oregon has already passed a law that exempts from taxation those federal employees who work on the dam in Oregon. (We would emphasize that to continue to include Oregon in this bill is unnecessary and an insult to the elected officials of that state.)

The ability to define their tax systems within the bounds of the Constitution is one of the core elements of sovereignty preserved to the states under the Constitution. A central feature of this sovereignty is the ability to tax economic activity and income earned within the borders of the state, and it is vital to the continued strong role of the states in the federal system. State taxing authority should be preempted by the federal government only where there is a compelling policy rationale. There is no such rationale present here.

The Senate is faced with an opportunity to demonstrate good faith to the principles contained in The Unfunded Mandates Act of

1995. If Congress feels that the impact of federal workers on installations crossing the borders of two states—one of which imposes an income tax and the other of which does not—should be offset, it should provide the funding necessary to offset the costs imposed on the states affected.

Sincerely,

HARLEY T. DUNCAN,
Executive Director.

Mr. FORD. Mr. President, the National Conference of State Legislatures also strongly oppose the State tax preemption provided in the defense authorization bill. Let me read from an August 7, 1998, letter to the conferees. This was written to the chairman of the Senate Armed Services Committee, the Senator from South Carolina, Senator THURMOND. ''Federal preemption of legitimate State taxing authority.'' The National Conference of State Legislatures wrote to the chairman and said this is wrong:

On behalf of the National Conference of State Legislatures, I am writing in opposition to Section 1045 of the House version of the National Defense Authorization bill (H.R. 3616). NCSL opposes federal action that preempts the states' constitutional authority to tax income earned within their borders . . . We urge you to preserve the States' sovereignty—

Preserve the States' sovereignty.

I ask unanimous consent that the letter from the National Conference of State Legislatures be printed in the RECORD.

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

NATIONAL CONFERENCE
OF STATE LEGISLATURES,
Washington, DC, August 7, 1998.

Re Federal preemption of legitimate State taxing authority.

Hon. STROM THURMOND,
Chairman, Senate Armed Services Committee, U.S. Senate, Senate Russell Office Building, Washington, DC.

DEAR SENATOR THURMOND: On behalf of the National Conference of State Legislatures, I am writing in opposition to Section 1045 of the House version of the National Defense Authorization bill (HR 3616). NCSL opposes federal action that preempts the states' constitutional authority to tax income earned within their borders. Such federal legislation leads to inequitable, unfair and unlevel state tax policies and establishes a precedent for increased restrictions on source taxation.

Section 1045 of the House bill would preempt state taxation of federal workers in three locations. NCSL believes that the states in question should be allowed to determine how to tax workers who reside in one state and work in another, free from federal intrusion.

We urge you to preserve the states' sovereignty right to define their own tax systems by removing. Section 1045 from the conference report on the bill. Finally, should the conferees include the provision in the final bill, we urge you to find an offset for the cost. Burdening the states with an unfunded mandate violates the Unfunded Mandates Reform Act of 1994. The cost associated with the loss of states tax revenue, due to change in federal policy, should be borne exclusively by the federal government.

We look forward to working with you on this issue. Should you have additional questions, please contact our committee staff, Gerri Madrid, at (202) 624–8670.

Sincerely,

TOM JOHNSON,
Chair, Federal Budget and Taxation Committee, Ohio House of Representatives.

Mr. FORD. Mr. President, apparently all of these requests to the Republican conferees to keep this State preemption provision out of the defense bill fell on deaf ears. The conferees either did not listen or did not care. One way or another, this was a done deal, a sweetheart deal, a special tax provision which favors one set of workers over another for the same work performed, at the same location, despite State law.

We are sitting at the same table. We are both working for the same employer. We are both doing the same job. We are both drawing the same pay, but you do not pay any taxes because you are a resident of Tennessee. I am a resident of Kentucky, and I pay my taxes.

Mr. President, all of the requests to the Republican conferees to keep this State tax provision out of the defense bill fell on deaf ears. I wanted to repeat that. It is a special tax provision which favors one set of workers over another. It also gives the employers, or the companies, an advantage when they bid, because they don't have to pay the tax under this.

As I said earlier, the next bill ought to be exempting Kentucky residents from the sales tax in Tennessee. Just show your driver's license and your address and place of employment, and you don't pay the taxes, one of the highest sales tax States in the Nation because their income comes from the sales tax.

I hope my colleagues understand the precedent that is being set here. We are preempting State law—preempting State law—and establishing a special tax status for a group of not just Federal employees, but private sector workers who perform their work entirely within one State's borders. It is a very broad precedent. There is no stated policy rationale for this special preemption and special tax status we are granting. It is a precedent that will haunt my colleagues.

I want my colleagues to understand how many other Federal facilities are in similar situations. When the workers at these facilities, not just the Federal workers, but the private sector workers as well, when these workers find out about the sweetheart deal at Fort Campbell, they are going to be asking their Senators, ''Why can't we get a good deal as well?''

I have asked the Federal Tax Administrators just how many other Federal facilities are similarly situated. We have a preliminary list, but it is only preliminary. It probably does not include everything. The partial list we have shows there are 240 Federal facilities around the country that are on or near the borders of two or more States with significantly different income tax structures.

We talk about how hard it was to work out this bill, how many issues came before the committee. In the future, if this is the precedent that is being set, the Armed Services Committee will be in the tax business; they will be in the finance business; they will be preempting State laws and will not be looking after the right thing they should be doing, and that is the defense of this great country of ours.

I want to share this with my colleagues because more than 20 other States are affected. I think about 20 other States. That is 40 Senators—pretty good bunch of Senators. In other words, Senators from at least 20 other States are in jeopardy of having to face this same issue.

What have you done to the future of the military bill, the defense authorization bill? What have you done to it? You have turned it into a finance bill, not a defense bill. And I say to my colleagues, if they are from one of these States, you might be standing up here next year. Once the private sector employees find out about the special tax preemption, they may be lobbying their Senators next year to exempt them from the State tax laws in your State.

Let me read a list, and this is only a partial list: Arkansas has 7 installations. Arizona has 7. California has 50—50 installations similar to the one in Kentucky. Think about that when the two Senators from California will have to say—it goes all the way from military facilities, such as Fort Irwin Naval Weapons Center, Sierra Army Depot, the Grand Mesa National Forest.

Connecticut has 2. Georgia has 1. Maine has 1. Oh, I remember the argument here between Maine and New Hampshire. They are left out of this bill. They are left out of this bill because both of them apparently are on the other side. I was for Maine.

Massachusetts has 1. Mississippi has 8. Mississippi is probably the most vulnerable State of all of them because of their border situation. Can you imagine what would happen if all of these employees went to the two Senators in Mississippi and said, ''Right across the line here in Tennessee they receive tax exemptions. What about us? What about us? What's fair for the goose is fair for the gander.''

Missouri has 6. Montana has 10. They are not in this bill. Nebraska has 1. New Jersey has 20—New Jersey has 20. New Mexico has 6. New York has only 1. I was surprised at that. But North Carolina has 13—North Carolina has 13. Oregon has 20. Pennsylvania has 1. I heard a lot about the Philadelphia Naval Yard last year.

South Carolina has 1. South Dakota has 3. Tennessee has 3. Utah has 37. Think about that. Utah has 37 installations similar to the situation in this bill.

What about those employees—Federal employees, private sector employees—who were not exempt? Can you

imagine what the two Senators from Utah are going to face when they understand that other States were preempted and created a special tax group?

Vermont has 2. The State of Washington has 37.

What about the Indian reservations? Oh, we get into a good one there—Indian reservations. What about State workers at Indian casinos located on tribal lands? I do not understand. Why, the little leak in the dike here is beginning to take away the whole dike; and it could.

Mr. President, I ask unanimous consent that the list of these locations in the various States be printed in the RECORD.

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

240 FEDERAL FACILITIES POTENTIALLY AFFECTED BY THE PRECEDENT (LOCATED ON OR NEAR STATE BORDERS)

ARIZONA (7)

Hoover Dam.
Davis Dam.
Glen Canyon Dam.
Parker Dam.
Imperial Dam.
Several National Forests.
Military Installations near Yuma.

ARKANSAS (9)

Federal prison in Forrest City.
Corps of Engineers projects at Beaver Lake.
Corps of Engineers projects at Bull Shoals Lake.
Corps of Engineers projects at Norfolk Lake.
Corps of Engineers projects at the Arkansas River.
Fort Chaffee Army base.
Felsenthal National Wildlife Refuge.
White River National Refuge.
VA Hospital in Fayetteville.

CALIFORNIA (50)

Military Facilities—Fort Irwin, Naval Weapons Center, Sierra Army Depot.
National Forests—Eldorado, Inyo, Klamath, Modoc, Plumas, Rogue River, Shasta-Trinity, Sierra, Siskiyou, Six Rivers, Stanislaus, Tahoe, Toiyabe.
National Parks and Monuments—Clear Lake National Wildlife Refuge, Death Valley National Park, Joshua Tree National Park, Kings Canyon National Park, Lava Beds National Monuments, Lower Klamath National Wildlife Refuge, Modoc National Wildlife Refuge, Mojave National Preserve, Mt. Shasta Recreation Center, Redwood National Park, Tule Lake National Wildlife Refuge, Yosemite National Park.
U.S. Bureau of Reclamation—Boca Dam, Imperial Diversion, Laguana Diversion, Lake Tahoe Dam, Prosser Creek Dam, Senator Wash, Sly Park, Stampede Dam, Colorado Dinosaur National Monument.
Routt National Forest.
Arapaho National Forest.
Roosevelt National Forest.
Rocky Mountain National Park.
Pawnee National Grassland.
Comanche National Grassland.
Great Sand Dunes National Monument.
Rio Grande National Forest.
San Juan National Forest.
Mesa Verde National Park.
Uncompahgre National Forest.
Colorado National Monument.
Grand Mesa National Forest.

CONNECTICUT (2)

U.S. Naval Submarine Base, Groton.
U.S. Coast Guard Academy, New London.

GEORGIA

Kings Bay Naval Submarine Base.

MAINE

Portsmouth Naval Shipyard.

MASSACHUSETTS

Hanscom Air Force Base.

MISSISSIPPI (8)

Holly Springs National Forest.
NASA Test Site, Bay St. Louis.
Vicksburg National Military Park.
U.S. Corps of Engineers District Office, Vicksburg.
Natchez Trace Parkway.
Meridian Naval Air Station.
Columbus Air Force Base.
TVA, Tupelo.

MISSOURI (6)

Federal Locks and Dams:
No. 20 near Canton.
No. 21 near West Quincy.
No. 22 near Saverton.
No. 24 near Clarksville.
No. 25 near West Alton.
No. 27 near St. Louis.

MONTANA (10)

Kootenai National Forest.
Lolo National Forest.
Bitteroot National Forest.
Beaverhead National Forest.
Custer National Forest.
Bighorn Canyon National Recreation Area.
Yellowstone National Park.
Glacier National Park.
Crow Reservation.
Blackfeet Reservation.

NEBRASKA

Gavins Point Dam.

NEW JERSEY (20)

McGuire Air Force Base.
Fort Dix Army Installation.
U.S. Naval Air Station, Lakehurst.
Pomona Naval Training Airport.
U.S. Naval Recreation Target Area, Ocean City.
Ft. Monmouth, Monmouth.
Ft. Hancock, Sandy Hook.
U.S. Coast Guard Bases (Cape May, Fort Dix, Highland, Pt. Pleasant, Ocean City).
Sandy Hook Gateway National Recreation Area.
Delaware Water Gap National Recreation Area.
Morristown National Historic Park.
Killcohock National Wildlife Refuge.
Red Bank National Battlefield Park.
Great Swamp National Wildlife Refuge.
Edwin B. Forsythe National Wildlife Refuge.
Brigantine National Wildlife Refuge.

NEW MEXICO (6)

White Sands Missile Range.
Cannon Air Force Base.
Carlsbad Caverns National Park.
Kiowa National Grassland.
Carson National Forest.
Santa Fe National Forest.

NEW YORK

Ellis Island.

NORTH CAROLINA

Great Smoky Mountains National Park.
Cherokee Indian Reservation.
Pisgah National Forest.
Blue Ridge Parkway.
Uwharrie National Forest.
Fort Bragg Military Reservation.
Pope Air Force Base.
Camp Butner Federal Prison.
Sunny Point Army Terminal.
U.S. Coast Guard Air Station, Elizabeth City.
Veterans Hospital—Swannanoa.
Veterans Hospital—Oteen.
Veterans Hospital—Durham.

OREGON (20)

Bonneville Power Administration.
U.S. Army Corps of Engineers, North Pacific Division.
FAA Facilities.
Portland Air Force Base.
Kingsley Air Force Base in Klamath Falls.
U.S. Coast Guard, Captain of the Port.
Fremont National Forest.
Winema National Forest.
Rogue River National Forest.
Siskiyou National Forest.
Lower Klamath National Wildlife Refuge.
Hart Mt. National Wildlife Refuge.
Wallawa-Whitman National Forest.
Hells Canyon National Recreation Area.
Umatilla Army Depot.
Mt. Hood National Forest.
Umatilla National Forest.
Cold Springs National Wildlife Refuge.
McCay Creek National Wildlife Refuge.
Warm Springs Indian Reservation.

PENNSYLVANIA

Philadelphia Naval Yard.

SOUTH CAROLINA

Savannah River Site.

SOUTH DAKOTA (3)

Black Hills National Forest.
Mt. Rushmore.
Lake Wahee.

TENNESSEE (3)

Fort Campbell.
Millington Naval Base.
Arnold Engineering Research Facility.

UTAH (37)

Flaming Gorge National Recreation Area.
Manti La-Sal National Forest.
Canyonlands National Park.
Arches National Park.
Ashley National Forest.
Dinosaur National Monument.
Brown's Park National Waterfowl Management Area.
Bryce Canyon National Park.
Caribou National Forest.
Cottonwood Canyon, BLM.
Dart Canyon Primitive Area.
Dart Canyon Wilderness Area.
Desert Range Experimental Station.
Deseret Test Center, USAF.
Dixie National Forest.
Dugway Proving Grounds.
Escalante Staircase National Monument.
Glen Canyon Dam.
Glen Canyon National Park.
Golden Spike National Historic Site.
Governor Arch, BLM.
Grand Gulch Primitive Area.
High Uintas Wilderness Area.
Hill Air Force Range.
Hovenweep National Monument.
Processing Center, Ogden.
Jones Hole Federal Hatchery.
Joshua Tree Forest, BLM.
Mount Naomi Wilderness Area.
Mt. Honeyville Wilderness Area.
Paria Canyon Cliffs Wilderness Area.
Piute Wilderness Area.
Rainbow Bridge National Monument.
Sawtooth National Forest.
Wasatch National Forest.
Wendover Range, USAF.
Zion National Park.

VERMONT (2)

Green Mountain National Forest.
Border Patrol Station, Highgate.

WASHINGTON (37)

Federal Dams on the Columbia River.
Federal Dams on the Snake River.
Fairchild Air Force Base.
Mt. Spokane Air Force Facility.
U.S. DOT/U.S. Coast Guard Station Ilwaco and Westport.

Veterans Offices/Hospitals—Vancouver and Walla Walla.

U.S. Department of Energy—Hanford Site.

Indian Reservations—Spokane, Kalispel, Colville, Yakima, Shoalwater.

National Forests—Gifford Pinchot, Umatilla, Colville, Kaniksu, Pend Oreille, Okanogan.

National Historic Sites—Whitman Mission, Ft. Vancouver.

Mt. St. Helens National Volcanic Monument.

USGS Cascade Volcano Observatory.

National Wildlife Refuges—Julia Butler Hanson, Willapa, Ridgefield, Conboy Lake, Umatilla, Toppenish, Turnbull, Little Pend Oreille.

Bonneville Power Administration—Vancouver facility.

Bureau of Reclamation Offices and Sites—Franklin County.

FAA Offices—Pasco, Walla Walla, Spokane.

OTHER GENERAL CATEGORIES

1. National Forests which straddle State borders.

2. Indian Reservations—What about state workers at Indian casinos located on tribal lands?

3. National Refuges which straddle State borders.

Mr. FORD. Mr. President, I also want to make clear to my colleagues that this special tax preemption provision in the bill is a clear violation of the spirit of the Unfunded Mandates Act. I have said that before, but I want to make it clear. This provision will cost my State $4 million in lost revenue. What are we doing to offset the loss from the special tax preemption provision in this bill? Nothing. Absolutely nothing. Not a thing.

Mr. President, if this special provision had been offered on the Senate floor, I would have offered a second-degree amendment requiring us to at least study the broad scope of the precedent we were setting here before we acted. I am not sure a great deal of thought has been given to the far-reaching effect of this one little amendment in the defense authorization bill. It was a special political decision, and that special political decision will have ripples that will turn into waves in the future.

Mr. President, had this special provision been offered on the Senate floor, I would have asked for a study. Let's think through this one. We are preempting the States; we are telling the States how they can tax and how they cannot tax. This is not a Federal tax. This is a State tax.

I think my colleagues would have been shocked at how broad this precedent is by applying this sweetheart deal at Federal facilities across the country. They would be embarrassed to find out the extent to which we are meddling in State tax law matters on a defense authorization bill—all to create a special State tax status for a select group of Federal and private sector workers. I think my colleagues would want to know this information.

Mr. President, I ask unanimous consent that a copy of the amendment I would have offered be printed in the RECORD.

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

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

SEC. . STUDY ON NON-RESIDENT WAGE EARNERS AT FEDERAL FACILITIES.

(a) The Secretary of the Treasury shall conduct a study which—

(1) identifies all federal facilities located within 50 miles of the border of an adjacent State;

(2) estimates the number of non-resident wage earners employed at such federal facilities; and

(3) compiles and describes all agreements or compacts between States regarding the taxation of non-resident wage earners employed at such facilities.

(b) The Secretary shall transmit the results of such study to the Congress not later than 180 days after the enactment of this Act.

Mr. FORD. Mr. President, the proponents of this special deal suggest that Tennessee employees receive no services from the State of Kentucky and, therefore, should be entitled to their special exemption. Mr. President, this is simply not the case. Let me read from a July 11, 1997, letter from the Kentucky Revenue Cabinet outlining the services the State of Kentucky provides to those workers.

Again, I remind my colleagues that these are Federal and private sector workers who perform their work within the borders of the State of Kentucky.

Roads—Fort Campbell is accessible from both the Kentucky side and the Tennessee side. Most workers enter the base at the gate nearest their work station. This means, for example, that most hospital workers enter on the Tennessee side . . . and most school workers enter on the Kentucky side using Kentucky maintained roads (the school is in Kentucky).

Water and sewer services— . . .

Electrical service—Most is supplied directly to the base by the Tennessee Valley Authority. One housing area, however, is supplied by the Pennyrile Electric Cooperative, a Kentucky-based electric company.

Cooperative Fire Protection [is there]. . . .

Schools—The school system on the Fort Campbell base is fully self-contained and federally funded. It is limited [however] to the children of active duty military personnel . . .

Police Protection—. . . .

Unemployment Benefits—. . . .

Mr. President, we talk about exempting the Tennessee employees from paying Kentucky tax, but the Federal civilian workers who become unemployed can apply for benefits from the State where they work or the State where they live. If a Tennessee resident working in Kentucky becomes unemployed and applies in Tennessee, a transfer is made from the Kentucky fund to the Tennessee fund to pay that worker's unemployment claim.

What is wrong with that agreement? I don't think anything. The result is that wherever the claim is filed, Kentucky funds pay the claim.

Mr. President, I ask unanimous consent a letter from Alex W. Rose, commissioner, Department of Law, Kentucky Revenue Cabinet, be printed in the RECORD.

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

REVENUE CABINET,
OFFICE OF GENERAL COUNSEL,
Frankfort, KY, July 11, 1997.

Re H.R. 1953—Fort Campbell.

Mr. HARLEY DUNCAN,
Federation of Tax Administrators,
Washington, DC.

DEAR HARLEY: The Revenue Cabinet has gathered some information on the Fort Campbell issues of whether employees who live in Tennessee and work on the Kentucky side of the Fort Campbell installation receive any benefits from the state of Kentucky.

The question of what services Kentucky provides is quite broad. I will attempt to itemize below what we have investigated and the results.

Roads—Fort Campbell is accessible from both the Kentucky side and the Tennessee side. Most workers enter the base at the gate nearest their work station. This means, for example, that most hospital workers enter on the Tennessee side (the hospital is in Tennessee), and most school workers enter on the Kentucky side using Kentucky maintained roads (the school is in Kentucky).

Water and Sewer Service—Self contained on the base.

Electric Service—Most is supplied directly to the base by the Tennessee Valley Authority. One housing area, however, is supplied by the Pennyrile Electric Cooperative, a Kentucky based electric company.

Cooperative Fire Protection—Local communities in both Kentucky and Tennessee have agreements with Fort Campbell to assist in the event of a major fire or other emergency.

Schools—The school system on the Fort Campbell base is fully self-contained and federally funded. It is limited to the children of active duty military personnel stationed at the military base.

Police Protection—All police protection is self-contained. Responsibility for Fort Campbell and all federal military bases rests with the federal/military police.

Unemployment Benefits—Federal civilian workers who become unemployed can apply for benefits from the state where they work or the state where they live. If a Tennessee resident working in Kentucky becomes unemployed and applies in Tennessee, a transfer is made from the Kentucky fund to the Tennessee fund to pay that worker's unemployment claim. The result is that wherever the claim is filed, Kentucky funds pay the claim.

I hope this information is helpful to you in your efforts concerning H.R. 1953. It is our belief that the civilian employees who work on the Kentucky side of Fort Campbell definitely receive some benefits from the state of Kentucky.

The Kentucky Revenue Cabinet greatly appreciates the work FTA is doing on H.R. 1953. Harley, we can't thank you and your staff enough. If I can be of further assistance, please let me know.

Sincerely,

ALEX W. ROSE,
Commissioner, Department of Law,
Kentucky Revenue Cabinet.

Mr. FORD. Mr. President, had this conference report been on a Senate bill, I would have offered a motion to recommit the bill to conference to strip this special State tax preemption provision from the bill. It is quite unfair, and I think everybody understands that.

They are doing a political favor, because the Senators who represent that

State are from another party. I do not understand why my colleague, who is a member of that party, would allow this to happen to his State. I thought we were here representing our constituents, not our party. I think it is disappointing that both my colleagues here in the Senate and the Congressman from the First District in my State allowed this to happen without at least raising their voice in objection.

However, I understand the option is no longer mine to offer any kind of amendment or any kind of motion to recommit. Since this is a House bill and it has already been approved by the House, thereby dissolving the conference, I understand the rules. I think I know the rules reasonably well here—not quite as well as Senator BYRD or, hopefully, the Parliamentarian, but I have no illusions about what the outcome of that vote might have been. After all, a sweetheart deal is a sweetheart deal.

I did want to draw attention to this provision. It is patently unfair. It has no place in this bill. The committees that put this bill together have no jurisdiction over the issue whatever. I think it is a dark mark on this piece of legislation as it relates to States rights, going outside the jurisdiction of the committee. I think it leaves a black mark and a black cloud over this piece of legislation. This special tax preemption provision is terrible policy. We should not be dictating to States how to administer their own tax laws. We should not be imposing our will on the States in matters that have nothing to do with the Federal law and are traditionally and constitutionally left to the States to resolve.

We hear a lot of rhetoric from the other side of the aisle that is never matched by the actions we see around this place. They say ''lower taxes,'' but fail to say how they will offset them without causing more deficits. They say ''less government,'' without saying where they will cut. They say ''no more unfunded mandates,'' but continue to impose unfunded mandates on the States. And this is, in the strictest interpretation, an unfunded mandate. They say ''States rights,'' but continue to pass special proposals like this one, which preempt State law, even in the areas that have been left to the States for the last 200 years.

Once again, Mr. President, we see that the rhetoric does not match the reality. When my friends on the other side see that expanding the role of Federal law fits their purposes, the rhetoric about States rights goes out the window. When they create a special tax exemption by imposing a $4 million cost onto another State, the unfunded mandates rhetoric goes out the window.

Mr. President, I am very disappointed we have seen this issue, the preemption of State tax law, legislated this way on a defense authorization bill. It is bitterly opposed by my State and it ought to be bitterly opposed by every other Senator on this floor.

I say to my colleagues, you have created a broad precedent here that I believe will come back to haunt you. I will not be here on the floor to see it play out but I can see it coming. The next time, it won't be Kentucky that will be hit. It very well may be the State of one of the Members who sat on the conference.

How much time remains?

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator has 40 minutes remaining.

Mr. FORD. I reserve the remainder of my time and I yield the floor.

Mr. THURMOND. Mr. President, I suggest the absence of a quorum and I ask that the time be equally charged.

Mr. FORD. I object, Mr. President.

The PRESIDING OFFICER. The objection is heard.

Mr. FORD. Since I objected, I will use some of my time.

I was hoping that the proposer of this amendment would be here on the floor so we could discuss it a little bit more. I have been here, now, for about 30 minutes—I guess, a little better—trying to discuss my side, and I don't want to lose my time on the basis that the opposition or the proponent is not here. I am more than willing to let the time come off of the time of the managers of the bill but I prefer the time not come off of mine. If the chairman of the committee and the manager of the bill would like to do that, I would have no objection. If he prefers not to do that, I hope he will encourage the Senators from Tennessee to come to the floor.

The only problem I have here before I suggest a quorum is, I would not want to be preempted from taking the quorum off—which I could—and then we would have to go through the process. Would the Senator give me the assurance he would not object if I want to take the quorum off?

Mr. THURMOND. No objection.

Mr. FORD. 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. FORD. 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. FORD. Mr. President, I ask unanimous consent that the time during the quorum be charged equally to the four entities that have time on this bill.

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

Mr. FORD. 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. THOMPSON. 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. THOMPSON. Mr. President, I rise to express my strong support for the conference report we are considering today. This report includes a provision that will provide relief to approximately 2,000 citizens of my State of Tennessee who are being unfairly taxed by the Commonwealth of Kentucky. These people are civilian employees at Fort Campbell who live in Tennessee and work on the Kentucky side of Fort Campbell.

They are being required to pay income tax to Kentucky. But they receive no services from Kentucky.

I understand that it has been stated on the floor this morning that Tennessee is taking unfair advantage of Kentucky, that perhaps we will bankrupt the State or do grievous harm to them—basically a conspiracy among Democrats and Republicans, apparently, Tennesseans and Kentuckians, to perpetrate somewhat of an outrage against the good folks of Kentucky.

I am sorry that we can't debate it based strictly on the merits of the action being taken, because it is a very, very meritorious objective consideration of what we are doing here today. On any objective consideration in terms of sound policy, or in terms of fairness, this provision stands and survives.

We are not taking unfair advantage of the Commonwealth of Kentucky, our good neighbors to the north. What we are doing, as attested to by a vote of 15-to-0 out of the Governmental Affairs Committee, is righting a wrong and correcting an inequity.

The Commonwealth of Kentucky has gotten used to being able to tax Tennesseans—levy income tax on them—without providing any services to them. Weaning from a situation like that I guess perhaps can be somewhat painful, but I don't think it is going to do grievous harm to the Commonwealth of Kentucky, which I understand had a $306 million surplus last year, and is perhaps beside the point.

But when we are talking about fairness and equity, and some of the other things we are discussing today, and the fact that we are discussing basic principles and so forth, and who looks out for the little guy, we are basically dealing with civilian employees working at Fort Campbell with average incomes of about $30,000 a year. So these Tennesseans are paying about $1,800 a year to Kentucky for nothing in return. So let's just put that in a little bit of perspective.

Of course, it is not just the Tennessee-Kentucky situation, it is two other situations where the Federal facility straddles the State border. This provides relief for the State of Washington also. It also provides relief for the State of South Dakota. I don't see the Members of the State of Oregon, which is affected by it, or the State of Nebraska, which is affected by it, to seem to have any problems either with

the constitutionality or the fairness of their situations. The situations are basically the same.

But we have an issue here today with regard to Tennessee and Kentucky. So be it.

As I said, these are civilian Federal employees. They work in Fort Campbell, KY. As it is well known, 80 percent of Fort Campbell is in the State of Tennessee. The mailbox is Kentucky. It is referred to as Fort Campbell, KY. There are several Federal civilian employees who live in Tennessee and who work on the Kentucky side. Some of them have worked on the Tennessee side for a long time and are assigned on the Kentucky side. They have nothing to do with that. It is not within their power, if they want to remain employed. And thereby Tennessee does not have an income tax. Kentucky does. They pay the maximum sales tax and other taxes in Tennessee, plus the income tax of Kentucky. They enter the Federal facilities on the Kentucky side by a Federal route. They do not go on the property of the Commonwealth of Kentucky to enter the place where they are working.

As I said, there are no services provided. I understand there was some reference made to some resident facilities being provided with water or some services. Of course, these people do not avail themselves of that. I can't imagine anything other than a most dire emergency where fire, water, sewer, and police protection, and all of that is provided by the Federal Government. If the problem gets so big, I imagine folks in Tennessee and Kentucky would come in and try to help out. But basically, in terms of basic services—fire, police, sewer, and water—none of those services is provided by the Commonwealth of Kentucky for the benefit of these employees. Basically what they are doing is paying income taxes for nothing received.

As I said, these people are not in the military. There is already an exemption for the military employees. They can only be taxed in their State of residence.

This is a situation where literally some people have been transferred and moved across the street, or even down the hall in their own building, and become subject, just because of that move, to Federal income tax or to income tax from the Commonwealth of Kentucky. When people in that situation—who live in Tennessee, work in Kentucky, only go on Federal property to get to their job, come right back, no services—if those individuals go on unemployment, they can't go to the Commonwealth of Kentucky and get unemployment benefits.

We had a witness before the Governmental Affairs Committee, when this was taken up, who makes $15,000 a year—$15,000 a year, and three kids—is a Federal civilian employee, lives in Tennessee, and works on the Kentucky side. When she went on hard times and had to apply for food stamps, she applied to the State of Kentucky and was turned down.

There was another witness who appeared before our committee who had been in the Air Force for 20 years, grew up in Kentucky, and paid Kentucky taxes far 20 years; then he moved to Tennessee; then he was assigned at Fort Campbell on the Kentucky side while he was living in Tennessee—the typical kind of a situation we are addressing. His daughter applied to the University of Kentucky. He sought instate tuition rates. He was denied that. He was treated as out-of-State for purposes of tuition when his daughter wanted to go to the University of Kentucky.

In other words, he is a Tennessean under some circumstances, when it benefits the Commonwealth, and a Kentuckian in other circumstances, when it benefits the Commonwealth.

As I said, it is not just Tennessee that is involved here. Employees at the Gavin's Point Hydroelectric Dam are in a similar situation. This dam is a Federal facility maintained by the Army Corps of Engineers and it straddles the Missouri River. The Missouri River is the border between South Dakota and Nebraska. The 35 South Dakotans who are employed at the dam are subject to Nebraska income tax on half their wages earned on the dam. Nebraska claims that because half of the Gavin's Point Dam is in the State of Nebraska, half the wages earned by South Dakotans on the dam are subject to Nebraska income tax. But these South Dakotans only travel into Nebraska while they are working on the Federal dam and they receive no benefits from Nebraska for the taxes that they are required to pay. They are ineligible for Nebraska unemployment benefits and accident insurance benefits.

Likewise, Washingtonians employed at the Columbia River hydroelectric dams were subject to tax by the State of Oregon until just recently.

These dams are Federal facilities maintained by the Army Corps of Engineers. They straddle the Columbia River. The Columbia River is the border between Washington and Oregon. One-hundred and forty Washingtonians working on these dams only cross into Oregon when their work takes them across the midpoint of the dams. Oregon had required these employees to keep detailed records regarding the exact amount of the time they spent on the Oregon side of the dam in order to obtain a tax refund from Oregon for time worked on the Washington side of the dam. Oregon also required Washington residents to pay income tax on a prorated amount of their vacation pay based upon the percentage of time during the year worked on the Oregon side of the dam. Because employees at the dam cross back and forth multiple times a day, Oregonians' recordkeeping requirements forced the Federal employees to waste a good portion of their workday documenting their movements across the dam.

The Washington residents working on the Columbia River Dam receive no benefits from the State of Oregon. They are not eligible for instate tuition rates at Oregon schools. They are not eligible for Oregon unemployment compensation benefits. In fact, when a Washingtonian who was laid off from Washington at one of the dams applied for Oregon unemployment compensation, he was denied. But when he later received unemployment benefits from Washington, Oregon tried to tax those benefits.

I recognize that the Oregon State Legislature enacted a bill last year to exempt Washingtonians employed at the Columbia River Dam from Oregon income tax. But it appears that the State was only reacting to the other body's swift movement of H.R. 1953. Oregon is continuing to require Washington residents to file W–2 forms in Oregon. Therefore, Washingtonians fear that Oregon may repeal the recently enacted exemption in the absence of Federal legislation.

Now, there is no question that with the passage of the Buck Act in 1940, States have the authority to tax Federal employees, but over a period of time, after due deliberation by Congress, there have been exceptions that have been made to this. There has been an exception for the military. There has been an exception for Members of Congress. There has been an exception for Amtrak employees, for example, employees who, of course, travel over several States. There was an exemption with regard to the ability to tax pension income from nonresidents. So these have been exemptions, and we can argue and debate the wisdom of each of these exemptions, but it has been long recognized.

There is no question about the constitutionality, incidentally. The witnesses even before our committee who did not think that what we were doing was the best way to go, I don't think raised any questions concerning the constitutionality of what we were doing.

Congress clearly has the right constitutionally to move in this regard. We can debate the merits of each of these exemptions, but there has been no question over the years after due deliberation there have been exemptions carved out on the basis of what is right and on the basis of fairness. This idea that we are opening up Pandora's box and it is going to affect anybody who works near a Federal facility or anything of that nature is certainly a misplaced concern. But that is not something that has been affected here—not employees who are near a border. We are talking about a specific situation where you have a Federal facility straddling two States. One State does not have a State income tax and the other State does. That is a very, very specific and narrow situation with which we are dealing.

It does not affect national parks, for example, where local governments

have much more to do with providing emergency services and things of that nature than the Commonwealth of Kentucky or the other two States affected here, the State of Oregon and the State of Nebraska, provide in these situations.

I agree that Congress should tread carefully when it acts to limit the taxing authorities of States, but these three situations addressed by the conference report are exceptional, and I believe they meet the elevated threshold which has been set by Congress for preempting a State's taxing authority.

At this time I would like to thank my distinguished colleagues who have served as conferees on the Strom Thurmond National Defense Authorization Act for including this important provision in the final bill. I would also like to thank my friends from Tennessee, Congressman BRYANT and Senator FRIST, for their hard work on behalf of these 2,000 Tennesseans. I am pleased they are finally getting the tax relief they deserve. I urge all of my colleagues to support this conference report.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. I am delighted that the distinguished Senator from Tennessee would come to the floor to explain his reasons for using the Armed Services legislation in an authorization bill for a tax provision.

One of the things my distinguished friend said is that Kentucky provides no facilities. Well, if a person who is employed at Fort Campbell files for unemployment benefits in Tennessee, guess who pays for it. Guess who pays for it. Kentucky reimburses Tennessee. Isn't that a service?

I heard talk about other States. Let's talk about our States—the roads that enter at the nearest gate. Sure, we have electrical service that is provided. That comes out of Kentucky into Fort Campbell. We have cooperative fire suppression. If they say it is serious, both Tennessee and Kentucky would be there.

Unemployment benefits—I am surprised the Senator would say that we don't pay anything. We reimburse Tennessee for the unemployment. Kentucky pays. He raised the fact that the Governmental Affairs Committee held a hearing on this but the Finance Committee did not. When did the Governmental Affairs Committee take over for the Finance Committee?

The Senator has talked about Oregon quite a bit. I have a copy of a letter to the Senator, written from the director of the Department of Revenue, saying that they settled their own problem, that Oregon passed their bill and the States worked it out. There is no need for them to be included in this legislation. Here is the letter, dated October 21, 1997. The Senator had it almost a year, but yet they put Oregon and Washington in this legislation and they don't need it. The States have worked it out themselves.

Mr. President, I ask unanimous consent that a letter to Senator THOMPSON from the director of the Oregon Department of Revenue be printed in the RECORD.

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

OREGON DEPARTMENT OF REVENUE,
Salem, OR, October 21, 1997.

Hon. FRED THOMPSON,
U.S. Senate, Chair, Committee on Governmental Affairs, Senate Dirksen, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to alert you to a piece of proposed federal legislation that is scheduled for a hearing this Friday. The proposal, contained in H.R. 1953, would place a federal prohibition upon the state of Oregon that would not allow Oregon to impose an income tax on Washington residents whom are federal employees working on the dams that span the Columbia River.

We were alerted to this problem earlier this year and were successful in obtaining legislation at the state level that exempts these Washington residents from Oregon income tax effective January 1, 1997. A copy of the bill, which has been signed into law by our Governor, is enclosed (See Sections 6 and 7 of Enrolled Senate Bill 998). We have been in contact with the Army Corps of Engineers and have jointly developed procedures that will ensure that the affected workers will not be taxed on this income and will receive a full refund of any amounts withheld prior to the passage of the bill.

I am concerned that the federal government is proceeding with legislation to address a problem that Oregon has already resolved. We take very seriously our responsibility to establish and maintain a tax system that is fair to all citizens regardless of their state of residency. As such, we are generally opposed to external mandates believing that they impinge on Oregon's sovereign right to define its own tax system. Accordingly, any efforts on your part to remove Oregon from this federal mandate would be greatly appreciated.

Thank you for the opportunity to express my concerns about this proposed legislation. Please feel free to contact me if you want to discuss the issue further.

Sincerely,

ELIZABETH HARCHENKO,
Director.

Mr. FORD. The Senator says that this only applies to two States really, or very few. But the precedent here is the dangerous thing. We start under the Buck Act, and I am sure the Senator, being a legal expert, is fully familiar with the Buck Act and what it says about the State's ability to tax its own. Now, if he is not familiar with that, I can help him a little bit in trying to explain the Buck Act.

But the two States were in the process of negotiating when they were informed, or at least the Tennessee side was informed, that it would be taken care of here. And it was being taken care of, so the negotiations were called off.

I remember when Tennessee called a special session to prevent Kentucky contractors from doing business in Tennessee. This is a long-term thing. It is just not the first one. I go back into the early 1960s when this occurred.

So, Mr. President, I understand what the Senator is trying to do, but I wonder how he voted on the unfunded mandates bill. You are eliminating $4 million a year—$4 million a year—from Kentucky's income. Are Kentuckians excused from the high Tennessee sales tax? Why not? Why wasn't that put in this bill? If you are going to be exempt from our income tax, why don't you exempt Kentuckians, who are identical employees with an identical employer? What about the restaurants and the canteens and the cleaners and such that are going to be exempt under this, the private sector? This is a broad, broad piece of legislation. Broad, broad.

Let me read the Buck Act. Of course, we have the authority, I guess, to do that, but is it right? There are 240 known installations similar to this situation. And Mississippi is one of the most vulnerable States in the country as it relates to this type of legislation.

The Buck Act says:

> No person shall be relieved from his liability for any income tax levied by any State, or by any duly constitutional taxing authority therein, having jurisdiction to levy such a tax by reason of his residing within a Federal area or receiving income from transactions occurring or services performed in such area. And such State or taxing authority shall have full jurisdiction and power to levy and collect such tax in any Federal area within such State to the same extent and with the same effect as though such area was not a Federal area.

That is the Buck Act.

My colleague lays out exempting military employees. When I served in World War II, we got exempted then. You only paid taxes in the State where you resided. That is nothing new. That is 55 years old, I guess—something near that. It has been here for 55 years.

He talked about Amtrak employees. They are on a train, they are going across the country. Would they pay tax in every State? Of course not. That is common sense, to let them pay tax in the State where they reside.

We have a lot of employees on the Interstate Highway System. They live in one State and they work in several States, as they construct interstate highways through various States. They are exempted. That is common sense.

But, to take an exemption and cost a State $4 million—what kind of surplus does Tennessee have? He refers to the surplus of Kentucky. What kind of surplus does Tennessee have? That has nothing to do with the principle and the character of this provision under the armed services defense authorization bill.

The Senator can argue all he wants to, but when he talks about in-State and out-of-State college, that individual renounced his Kentucky citizenship and moved to Tennessee. You enjoyed him moving over there. You probably welcomed him with open arms. But then you come in here and say he cannot get exemption in another State? Why didn't he go to Tennessee, if he likes it so much? We have a few universities there that are pretty good. They

get State exemption, residential exemption. He just happened to want to go to a better school. So, you fuss about that. They moved to Tennessee. Anybody else from any other State would not be exempted. Tennessee would not exempt a Kentuckian residing in the State of Kentucky to go to a Tennessee school. That seems to me a pretty thin reason for having this section of the armed services bill.

Mr. President, I go back to the point—I have heard many, many Senators in this body talk about States rights. There is a lot of rhetoric here. There is a difference between talk and action—talk and action. The talk is States rights. The action is taking it away.

This bill is going to pass. There is no question about that. I have no illusions. I have counted votes around here longer than the Senator from Tennessee, and I understand what the vote will be. But you have something in the legislation that is not right, that is not fair, that the States were in the process of trying to work out and to negotiate. Then the word comes from Big Brother: ''Don't you worry about it, we'll take care of it. Big Brother is going to preempt the States. Big Brother is going to take care of a few residents in this legislation.'' There are other States that have already settled. The Senator from Tennessee has the letter setting it out and objecting to what he is trying to do here because they worked it out as a State. You preempt the States.

What would happen if we were preempting Tennessee? Oh, it would be a bear in here. There would be growling and fighting and fuming and fussing over preempting Kentuckians in Tennessee. I hope my colleague from Kentucky, Senator MCCONNELL, will offer an amendment or something next year so Kentuckians who are in the same position will not have to pay the outrageous Tennessee sales tax. Just have a drivers license, show it, so we can be exempt.

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

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. Mr. President, I forgot to inquire as to the time situation. I understand we had 30 minutes. May I ask if time was kept on me before, how much time I have remaining on that?

The PRESIDING OFFICER. The Senator from Tennessee controls 14 minutes 30 seconds.

Mr. THOMPSON. Mr. President, just in response on some of the points that my friend from Kentucky made with regard to whether or not the other States need this and whether or not it is worked out permanently to their satisfaction, I think probably the Members of this body who represent those States would be the best witnesses. If the Oregon situation is worked out, then perhaps Senator GORTON and Senator MURRAY will oppose me on this. But I do not think they do. I think the two Senators from the State of Washington do not feel like it has been worked out.

Just as the situation is with South Dakota. I think the distinguished minority leader of this body supports this provision in the legislation. So, regarding the Tennessee/Kentucky situation, the negotiations that my friend refers to, I think the result was a bit different than what has been alluded to. My understanding was there was one meeting in August and the suggestion was that Tennessee absorb the difference; that we give these Tennessee employees a credit and the State of Tennessee absorb the difference. That was not considered to be fair by the people in Tennessee, so those negotiations broke down.

With regard to the college tuition situation, at issue here is not that this gentleman moved from Kentucky back to Tennessee; that is for sure. The issue is he was working on the Kentucky side and paying Kentucky income taxes and still not getting that benefit from Kentucky. That is the point. I believe, if my colleague will check—I suppose we cannot resolve it here this morning—but I think, if my colleague will check, he will see that when the situation is reversed, my understanding is when Kentuckians work on the Tennessee side, they get Tennessee instate tuition.

I do not want to get into an extended battle between the States here. We enjoy a common border and friendly relationships and all that. But just on the basis of fairness, I believe we are doing a little bit better in that regard, in terms of comity, in terms of out-of-State tuition for workers who work at Fort Campbell. It is just simply based upon the proposition that a person should not have to go across the border, down the hall or down the street or across the street and so forth, when he is assigned new duties, not use any of the Kentucky facilities, and have to pay Kentucky income tax and not get any of the benefits, whether it be college instate tuition or not.

I would also point out to my colleague with regard to Kentucky employees working at Fort Campbell who work on the Tennessee side, as far as ''on the post'' is concerned, they do not pay Tennessee sales tax. If they go off the post they will pay Tennessee sales tax, but then they are using Tennessee facilities. The point is just simply not well founded any way that you look at it.

With regard to the States rights issue, that is something that, of course, is of concern to all of us. A lot of people strongly believe in federalism and that the proper role of the States should be preserved in the relationship between the State and the Federal Government. I would simply point out that with regard to most of these issues, it has to do with the relationship between the State governments and the Federal Government, and the Federal Government's relationship with the States and their policies vis a vis the Federal Government.

This has to do with the way a State government is treating the citizens of another State. Ever since we have had the interstate commerce clause in the Constitution, that has been something that has been appropriately addressed by the Congress of the United States.

So I do not want to beat a dead horse here either. I feel, as does my colleague from Kentucky, that we are not going to change very many votes on this debate. But, in closing, I hope our friends in Kentucky do not feel that this is some kind of a power grab, something that is unfair to them, something that we have them over the barrel on.

This is something that is supported by Democrats and Republicans in this body. It is very narrowly tailored. My friend refers to 240 other situations. They are not similar. The only comparable or analogous situations would be those situations where Federal facilities straddle a State border, and there are only three of them, and those are the three that we deal with here.

We are trying to do what we often do in this body, and that is finely tailor a remedy for something that doesn't affect many people. It doesn't affect many people at all. But with regard to those who are affected, it is important for those folks who on average are making $30,000 a year. It is something we have been trying to work out for 10 years. We have not been able to. I would rather not have to come to the floor of the U.S. Senate and resolve this matter this way, either. After trying all other avenues, we were left with no choice.

Mr. President, I thank my colleagues and extend my good wishes and respect to the senior Senator from the Commonwealth of Kentucky who has fought so long and hard for his State. I never look forward to having to come to the floor and take him on in any circumstance, especially when he is defending or representing and taking the side of the Commonwealth of Kentucky, because I know his heart and soul is in it. I respectfully disagree with him on this. I think it is the right thing to do. I think it is fair to these employees, and I urge its adoption. I yield the floor.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER (Mr. GORTON). The Senator from the Commonwealth of Kentucky.

Mr. FORD. Mr. President, I appreciate the Senator's flattery, but in this case, it won't get him anywhere.

Let me correct one thing, if I can. The Senator said we were exempt from sales tax. That is not true. We checked this morning. You pay tax at restaurants, dry cleaners—all that—you pay the sales tax on the base. On the base, you pay it. We called down there this morning. Now, if you want to call again, that is fine. I know where it is. I have been there. They have trooped out the troops for me. They jumped with parachutes and all that. It is obvious my name won't be on any building

down there, however, but that is all right. I don't really worry about that.

What I worry about is what is being done here and the precedent that is being set. They talk about they are all similar. The two other locations are dams. They are dams. They go across a river. They connect the States. That is a very small area. This is 105,000 acres that we are talking about here. This is a different facility, different situation, different problem altogether. One is a hydro; the other one is a dam. I say to my friend, in those two cases he is defending here, it is limited to Federal employees. In the Tennessee-Kentucky problem, it is not. You did not limit it to Federal employees. You went to private sector contractors and their employees. That is the reason the $4 million is there and there is no unfunded mandate help for my State.

It is quite different. This is as broad as broad can be, with a capital B. It is not only Federal employees. The others are very small—35 employees. They are hydroelectric and dams, both of them. This is 105,000 acres.

We pay sales tax, as Kentucky residents, on the base. You exempt private contractors and their employees, and it costs us plenty. People will say, ''FORD, this is fair.'' Fair to whom? I can bring the document—I don't have it here with me—but tuition was part of the negotiations. I wouldn't negotiate either if it was going to be settled here and you know what is going to happen. But the rights of the minority should be protected. I can't change the vote. Mine is the only one that I can handle, that I can guarantee, but we ought to be protected.

I have seen a lot of debate here in a little over 24 years. The distinguished Senator from South Carolina has seen a lot more. But most of the time, almost without exception, both sides have wanted to protect the minority, and here there is no protection.

Mr. President, as we are being stampeded here, I think it is highly unfair, it is uncalled for, and this is very one-sided. We pay the unemployment, reimburse Tennessee, we help with electricity, we help with roads—we do all those things. You act like we don't do anything. But if you have unemployment benefits and Kentucky pays a Tennessee resident and reimburses the State—Kentucky doesn't do anything.

It is very difficult for me to understand when they start talking about precedents set here. That is for active duty military. They pay the tax, if any, in the State in which they are a resident. The Senator brought up Amtrak employees. You can get on a train in New York and wind up in California. Do you pay in each one of the States you go through? Of course not. That is just common sense.

You can have a construction worker who is building interstate highways and can go through several States. You wouldn't expect him to pay tax in every State. So common sense says pay the tax in the State in which he is a resident.

Here it is different. If you are a resident of Tennessee and work in Kentucky, you don't pay any tax. If you are a private sector employee and you are at a Federal facility, you don't pay any tax. The Tennessee contractor who would offer a bid at Fort Campbell has a sweetheart deal because a Kentucky contractor, or any other contractor, will have to pay the taxes, but Tennessee will not.

Big Brother says we are going to settle State taxes, not Federal taxes, State taxes, and put it on the defense authorization bill. It has never been to the Finance Committee, which has jurisdiction. And the testimony that was received in the House was something that I think we should go back to.

The Senate Governmental Affairs Committee held a hearing on October 24th of last year. The House held a hearing on April 17th of last year. To my knowledge, the Senate Armed Services Committee held no hearings on this issue in either session of this Congress. The reason is obvious: because the Armed Services Committee had absolutely no jurisdiction over this issue—none.

The conferees on the defense authorization bill, in my judgment, have no business attaching language which preempts State tax as part of the defense authorization bill.

Let's go back to the House hearing of last April. What kind of testimony did that committee hear? It heard that Kentucky's tax structure met all appropriate constitutional standards for fairness and nondiscrimination. That is the testimony. That committee was told that the ability of States to define their own tax structures within the bounds of the Constitution was ''one of the core elements of sovereignty preserved to the States under the Constitution.'' It may be constitutional, but it is ''one of the core elements of sovereignty preserved to the States under the Constitution.''

The committee was told that if Congress jumps in and preempts State laws in this case, ''it will by definition create a preferred class of taxpayer * * *. Currently all workers—public and private—in Kentucky * * * are subject to the same rules. This should not be disrupted by the Congress without a strong policy [mandate].''

The House committee was also told that the proposal to grant special status to Tennessee residents violated the spirit of the Unfunded Mandates Act of 1995. The committee was told, ''if Congress feels that the impact of federal workers employed on installations crossing the borders of two states * * * should be offset, it should provide the funding necessary to offset the costs imposed on the states affected and not just preempt legitimate taxing authority.'' That is the testimony. That is what the committee was told.

Mr. President, the Senate Governmental Affairs Committee I believe heard similar testimony during the hearing last August. The Senate Armed Services Committee, however, heard no testimony—the Senate Armed Services Committee, however, heard no such testimony—because it held no such hearing and had no such jurisdiction over this piece of legislation.

Nonetheless, without any floor debate, a provision was snuck into the House version of the defense authorization. So I ask where my Kentucky colleagues were.

Mr. THOMPSON. Will the Senator yield for a moment?

Mr. FORD. Glad to.

Mr. THOMPSON. Mr. President, I yield the remainder of my time to the floor manager, Senator THURMOND.

The PRESIDING OFFICER. The Senator has that right.

Mr. THOMPSON. I thank the Senator.

Mr. FORD. I ask the Chair, how much time do I have left?

The PRESIDING OFFICER. Five minutes 38 seconds.

Mr. FORD. Well, I understand why the Senator from Tennessee does not want to debate this; because he is wrong. I like him. He is a nice fellow, friendly. Oh, you could not ask anybody to be any friendlier than the Senator from Tennessee. And I have always enjoyed his acting. In fact, I have seen some reruns. I have enjoyed watching those a second and third time. I look for him. But that does not mean he is wrong or right all the time. But in this case he is wrong.

And I wish this would not happen because, I say to my colleagues, when we start telling the States how to tax, when we take that authority away from the States, then we have gone a long way in disrupting what the Founding Fathers said this country should be made up of.

So I will not leave this Senate without having made this statement. I understand where the votes are. I understand what is going to happen to this bill. But at some point, I believe, sincerely, that it will be in court. And the constitutionality of this and the preemption of States' ability—not a Federal tax but a State tax—they give a preferred class of taxpayer here. You have two people sitting across the table, having lunch, and both are working for the same company; both do the same job; both make the same money; but the fellow from Tennessee pays no tax; the fellow from Kentucky pays it on a military installation.

There are 240 of these, at least, out there. And as I said, Mississippi is going to be one of the most vulnerable States.

Mr. President, I yield the remainder of my time to Senator LEVIN for his use, and I yield the floor.

The PRESIDING OFFICER. Who yields the time?

Mr. FORD. I suggest the absence of a quorum, and it be charged equally to both sides.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. 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. THURMOND. I yield 5 minutes to the Senator from Arkansas.

Mr. HUTCHINSON. I thank the Chair.

Mr. President, I rise in strong support of the fiscal year 1999 Strom Thurmond defense authorization conference report. I congratulate the managers of this bill for their exemplary work. In particular, I would like to express my most sincere gratitude and appreciation to Chairman THURMOND for his service to the Senate and for his service to our country.

Mr. President, I know that this was one of the most contentious conferences in the past decade, particularly because of the U.S. satellite licensing provisions. However, I am pleased that this conference report contains a provision shifting the jurisdiction for U.S. satellite licensing from the Commerce Department back to the State Department, where I believe the national security of this country can best be protected. This action is a step away from the controversial policy that President Clinton established in 1996 and it is a step toward enhanced national security. I hope the President, in signing this bill, will walk forward with us.

In addition, I am very pleased by the addition of several China-related provisions that I spoke in behalf of—sponsored some of those—that I believe will limit the role of the oppressive Chinese regime and United States complicity in their actions.

In particular, this conference report includes a provision requiring the Departments of Defense and Justice, FBI, and the CIA to compile a list of known PLA commercial fronts operating in the United States. This provision also authorizes the President to monitor, to restrict, and to seize, if necessary, the assets of, and ban the operation of, such PLA companies within these United States.

Furthermore, the Senate adopted and included in the conference report a provision authorizing funding for additional customs agents to enforce the existing ban on slave labor products, an ongoing problem. These products are produced in slave-labor conditions in China and are sold to American consumers, unbeknownst to the consumer. These sections call upon the President to strengthen international agreements to improve monitoring of slave-labor imports.

There is yet a further provision that I am heartened the conference has included regarding Radio Free Asia. This provision would fund 24-hour-a-day Radio Free Asia broadcasts throughout China in each of the major dialects. This provision will allow the Voice of Freedom to penetrate through the oppressive veil now muting the Chinese people.

I want to make one final observation. Last week, in declaring the success of his country in combating the floods raging throughout China, President Jiang Zemin compared that success to the success of stemming the tide of democracy and praising their crackdown at Tiananmen Square. I think I need say little more, Mr. President, as to the ongoing problems of an oppressive regime in China. I applaud the chairman and the conference for including these very important provisions in the conference report.

I yield the floor.

Mr. THURMOND. Mr. President, I yield 5 minutes to the distinguished Senator from Indiana, Mr. COATS.

Again, I want to say, since the Senator is leaving this year, he has been one of the ablest men on the Armed Services Committee. The Armed Services Committee and the Senate will greatly miss this individual. Again, I commend him and wish him well in all of his undertakings.

Mr. COATS. Mr. President, I thank the chairman for his kind words. I want to return that compliment, because it has been a distinct privilege and pleasure for me to serve under the able leadership of our chairman, Senator THURMOND. Senator THURMOND is, perhaps, not one of but perhaps the most remarkable individual I have ever known, someone who has committed a lifetime and more of political service to his fellow man and to his Nation, and who has served as a Rock of Gibraltar in support of a strong national defense. Serving on the committee with his leadership has been a great privilege for me, as well as it has been with all my colleagues who serve on the Armed Services Committee.

This committee of the Congress is the least partisan of all the congressional committees. We put the national defense and national security above partisanship. We work together in a team fashion. While we don't always agree across the aisle on every issue, we do find consensus. Our purpose is to protect and support our men and women in uniform, and protect the citizens of the United States by giving them the very best defense that we can purchase for their investment of tax dollars.

This particular bill is to be commended in many ways. It addresses some of the quality of life and readiness and modernization issues that we have been struggling with. As chairman of the Airland Committee, I have had the privilege of overseeing a very considerable amount of spending that goes into modernizing our forces. We haven't been able to do everything that has been asked, but we certainly have taken important steps in trying to make sure that our defense forces are capable of meeting the threat and are unparalleled in terms of their superiority.

As a member of the Personnel Subcommittee, as former chairman of that committee, I am pleased that we have continued to address some of the important issues of pay and housing that are necessary to maintaining the spirit and moral of the people in our force. But, we have a great deal more to do in this area.

The Joint Chiefs of Staff testified just a couple of days ago about the state of readiness for today and tomorrow. Readiness is a function of quality of life, of training, and of adequate infrastructure. Two of these three areas—the infrastructure, the housing, the equipment, the facilities, the tools which we provide our service members with, and the quality of life—are strained and in many cases inadequate. The pay is too low and military benefits are in question. We are losing good people, too many good people. A great deal needs to be done in this area.

A great deal also needs to be done on the whole infrastructure front, not only in providing necessary facilities, but in terminating that infrastructure which is no longer needed. Too often we have perpetuated that infrastructure that is no longer required, and done so at great expense.

I have also been engaged in the whole question of defense transformation. How can we transform our national defense from a cold-war effort that has been unparalleled in the history of national defense—not only this country, but in this world. How can we transform that into a national security apparatus our defense structure to addresses the threats of the future, which will be different from the threats of the past. That is a monumental undertaking. I have suggested a number of ways in which this could be done. I have joined with my colleagues on the committee, particularly Senator LIEBERMAN, to define a process by which we can make those decisions, utilizing both inside and outside experts.

We have attempted, through this process, to ask the necessary questions and to make the necessary decisions about how we move forward. In that regard, in the future some very difficult but necessary decisions and tough choices are going to have to be made about how we spend our limited defense resources.

While we all acknowledge and hopefully will provide some additional funds to address the readiness concerns addressed by the Joint Chiefs, we are a long way from successfully allocating the resources we have available to us in the very best way that will give us the national security apparatus we need to address future threats. Tough decisions have to be made because we have the tendency to continue to fund systems that we already have in the force. Decisions are often made, both in the Pentagon and in the Congress, about maintaining what I call ''legacy'' systems—systems that have had a long shelf life, that are very near and dear to our heart, produced in our district, or systems we have related to over the

years. There is a great tendency to perpetuate these legacy systems and not give sufficient resources and weight to the new systems that are necessary to address the new threats of the future.

My challenge to the Congress, and my challenge to the Department of Defense, is to step up and make the unpopular choices, make the very difficult choices to divest legacy systems and structures which are no longer required, or whose value will depreciate quickly in the future, so that we can free up the resources that we must to address the question of providing the right national security apparatus that embraces the potential for a revolution in military affairs and addresses the threats of the future.

Mr. President, I congratulate the chairman, Senator THURMOND, and the ranking member, Senator LEVIN, for their leadership of a truly bipartison effort which achieves an effective balance across the quality of life of our servicemembers and their families, the readiness of the force, and the modernization of our systems as we enter the 21st century.

This accomplishment is of particular note because this defense bill adheres to the budget agreement of approximately $270 billion, a 1.1 percent decline in real terms over last year's defense budget, and it is approximately 35 percent below the cold war heights.

This defense authorization includes numerous provisions that will enhance military quality of life. It includes a 3.6 percent pay raise for military personnel. It also provides an increase of $660 million in military construction projects, over $250 million of which will fund barracks, dining facilities, and military housing. And this bill directs three health care demonstrations for our military retirees who are Medicare eligible.

This bill also adds over $800 million to the key readiness accounts of our active and reserve forces. We are all aware of the stress that current operations such as those in Bosnia or the Persian Gulf have on military readiness. The funds we have added will support infrastructure maintenance, training, and the availability of parts and supplies to sustain readiness levels.

Despite the gains we have made in areas of quality of life and readiness, we are still well short of the $60 billion procurement goal stated by Secretary of Defense Cohen and his predecessor Secretary Perry which was to have been achieved in fiscal year 1998.

Here we are again proposing a procurement level for fiscal year 1999 that is below $50 billion. Correspondingly, service modernization accounts remain on the margin—well short of the level required to recapitalize our joint capabilities for the 21st century.

And now I would like to comment on several modernization issues from my perspective as chairman of the Airland Subcommittee.

The Army is moving to consolidate the gains from the Force XXI process and to investigate smaller, faster, more lethal, and more deployable forces. But the Army's modernization strategy to pursue this transformation is lacking in areas of aviation, armored vehicles, and trucks, and we have provisions addressing these issues.

And I must say that we have made progress in addressing reserve component modernization thanks to the fine work of Senator GLENN, the ranking member of the Airland Subcommittee, to structure a coherent process for the consideration of Guard procurement. First, the budget request included nearly $1.4 billion in procurement for the guard and reserves—about a 50 percent increase over last year. And this bill provides another several hundred million. Clearly, the Senate's bipartisan efforts are having a positive affect on total force integration.

This bill also supports TACAIR modernization programs of the services and we have taken additional prudent steps to ensure these programs stay on track.

Last year, I spoke at length about my concerns with F–22 cost overruns and demonstrated performance. And I must acknowledge that I have these concerns as a supporter of F–22 development. But based on the testimony of the Air Force and the assessment of the General Accounting Office, there are many who share a deep concern over whether we can maintain support for the F–22, whose costs are approaching $200 million per aircraft, if the program does not adequately demonstrate performance and cost control.

This bill takes a very important further step to put key oversight provisions in place that fence the contract award for advance procurement of lot II F–22 until:

10 percent of testing is complete (the minimum specified by the Defense Science Board); or, the Secretary of Defense certifies that a lesser amount of flight testing is sufficient, and provides his rationale and analysis for that certification; however, the funds are fenced until the F–22 flies at least 4 percent of flight tests—the amount now planned prior to contract award—have been completed.

This provision holds the Department to its own plan at a minimum and places the emphasis squarely on the demonstrated performance of the F–22 program. No performance, no money.

This bill also contains a provision on a new joint experimentation initiative that is fundamental to defense transformation.

The Congress has been keenly aware of the need to transform our military capabilities to address the potentially very different operational challenges of the future. The National Defense Panel Report argues that these challenges—which include among other things, asymmetric challenges in power projection, information operations, and weapons of mass destruction—may place this Nation's security at far greater risk than we face today.

This provision includes a sense of Congress on the designation of a combatant commander with the mission for developing, preparing, conducting, and assessing a process of joint warfighting experimentation. Secretary Cohen has signed a charter assigning this mission to USACOM in Norfolk. And the provision lays out a set of reporting requirements from this CINC to keep Congress informed of the status of transformation.

The process of joint experimentation is designed to investigate the co-evolution of advances in technology, with changes in the organizational structure of our forces, and the development of new operational concepts. Accordingly, the purpose of joint experimentation is to find those technologies, organizations, and concepts which provide true leap-aheads in joint warfighting capabilities.

And just as important, it is the purpose of joint experimentation to identify those technologies and concepts which are failures. Some will consider the cost of these failures as wasteful. But quite the contrary. The true failure would be continuing to invest in systems before we really know what will or will not work on the battlefields of the 21st century. And given the level of defense budgets, we cannot afford to invest in systems which fail to contribute markedly to our future warfighting capabilities.

Previously in our history we have found ourselves unprepared for threats we faced at the outset of war. Our Nation rallied to eventually overcome these threats, but at a cost—not only in fiscal terms, but in lives.

In the very near future, technology will enable a different range of threats we must be prepared for. The process of joint experimentation supported in this bill will be central to ensuring our Armed Forces are prepared to successfully meet the national security challenges of the 21st century.

This bill makes great strides in improving the quality of life, readiness, and modernization of the force; and in laying the framework for the transformation of defense capabilities for the 21st century.

Yet there is much more work that needs to be done. The Joint Chiefs testified on Tuesday that defense budgets are not adequate to sustain current readiness and to keep our defense forces on firm footing for the future.

But defense budgets will likely not increase to the levels requested and this will leave the Pentagon, the administration, and the Congress with some tough decisions which must be made. And we need to know what these decisions are and when they need to be made. I proposed that another quadrennial defense review and national defense panel be established in the year 2000 to conduct another comprehensive assessment of defense strategy, policy, and programs. I trust that the defense committees will work to include those provisions in next year's bill.

I would like to thank and acknowledge the distinguished service of the chairman of the Senate Armed Services Committee, Senator THURMOND and the distinguished ranking member of the Airland Subcommittee, Senator GLENN for their tremendous stewardship of defense issues in this Defense authorization bill.

We often ask ourselves: ''Where have the heroes gone?''. Well I know where two of them have been, and that is working side-by-side with many of us deliberating defense issues. I commend them for their service and wish them the best in all future endeavors. In closing, this bill has my full support, and I strongly encourage all Members to support it.

Mr. THURMOND. Mr. President, again, I wish to thank the Senator for his good work on the Armed Services Committee.

Mr. KENNEDY. Mr. President, I support the conference report on the Fiscal Year 1999 Defense authorization bill. The House and Senate conferees have produced a worthwhile defense bill that deserves to be approved.

Before the conference, the House version contained several provisions that the administration had threatened to veto. We worked effectively in our deliberations with the House to resolve these differences and find satisfactory solutions.

Gender integration in basic military training is the first of these important issues. In the Fiscal Year 1998 Defense Authorization Act, Congress established a bipartisan panel to review gender integration in basic military training. That commission has started its work and will report to us next year. The conference compromise on this issue will enable the commission to finish its work, while requiring each of the services to provide separate, safe and secure housing for male and female recruits with the sleeping areas separated by permanent barriers and limited access.

The second of these issues is production of tritium for the nation's strategic arsenal. The Secretary of Energy has already initiated a comprehensive analysis to determine the best way to produce this material. That study will be concluded by December 31, 1998. The conference report includes a provision to withhold funds for the implementation of the Secretary of Energy's recommendation until full and complete congressional review next year.

The conference report provides needed support for our military forces while maintaining a realistic balance between readiness to take care of immediate needs, and investment in new systems for the future. The report also includes a fully funded and well-deserved 3.6 percent pay raise for military personnel.

We also tried to deal with the important and complex issue of military retiree health care. The report includes a provision for the Department of Defense to initiate a comprehensive test plan to evaluate the best method to provide health care to retired military personnel and their families. The Department of Defense will establish two demonstration plans, which will be evaluated before any future implementation. The first plan will allow selected retirees to enroll in the Federal Employees Health Benefit Plan. The second plan will implement a redesigned pharmacy benefit for Medicare-eligible DOD beneficiaries at two sites. This plan will also provide needed information for reducing out-of-pocket costs for military retirees.

Protecting the safety of our service men and women was also high on our priorities in the conference. The daily operations of our military forces have obvious risks and dangers. All branches of the Armed Forces have made progress in improving safety, but more remains to be done. I commend the Department of Defense for its accelerated installation of needed additional safety systems on military aircraft that carry passengers. The conference report includes additional funding for aircraft safety modifications.

Our troops are at risk from high tech attacks as well. The growing frequency and sophistication of such attacks on the Pentagon's computer networks demonstrate the need for improved protection of critical networks. The conference report recognizes the importance of this effort and supports the Air Force cyber-security program.

In the past 8 years, the Navy-Marine Corps team has responded to over 90 contingencies—almost one per month. As the ranking Democrat on the Seapower Subcommittee of the Armed Services Committee, I am pleased that the conference report provides the support necessary for our naval forces as they modernize to meet the challenges of tomorrow.

The report includes the necessary advance procurement funding for fiscal year 1999 for the Navy's next aircraft carrier, CVN–77. The Navy's procurement schedule for this carrier, revised from its budget submission of last year, will be under the cost cap mandated in last year's Defense Authorization Act. Also, much of the new technology being developed for the next generation aircraft carrier, the CVX, will be included in CVN–77.

The budget request for the 30 Navy F/A–18E/F Super Hornet fighters is included in the report. The Super Hornet combines the outstanding characteristics of earlier F/A–18 models with cutting edge technology in an affordable aircraft with significantly improved performance and endurance.

In addition, the Marine Corps' MV–22 Osprey tilt-rotor aircraft procurement for next year was increased to eight. The Osprey is a vertical take-off and landing aircraft designed to replace the Marine Corps' aging fleet of CH–46 and CH–53 helicopters.

The constructive compromises we reached during the conference on critical issues have produced a comprehensive bill which provides effectively for our national security, and which contains no provisions that would draw a veto.

I also join in commending the distinguished leadership of the chairman of the Senate Armed Services Committee, Senator THURMOND. He has worked effectively with all of us to see that our national security and the needs of our service men and women are met in this legislation. It has been a privilege to work with Senator THURMOND as chairman, and I look forward to continuing our work together on this important issues. It is especially fitting that this bill is named in his honor.

I urge my colleagues to support the Strong Thurmond National Defense Authorization Act for Fiscal Year 1999.

Mr. GLENN. Mr. President, I rise today as we consider the fiscal year 1999 Defense authorization conference to draw the Senate's attention to what appears to be a brewing controversy over the state of our military's readiness. Yesterday, the Committee on Armed Services held a hearing with Joint Chiefs to discuss some readiness issues that recently have been brought to the committee's attention. I believe there are very legitimate concerns regarding recruiting and retention trends, increased Personnel Tempo, as well as pay and benefits comparability, spare parts availability, and growing depot and real property maintenance issues to be examined.

I agree that we must pay very close attention to these issues because we are asking our men and women in uniform to do more today than we ever have during peacetime. We are asking them to do more, not so much with ''less,'' but with fewer and fewer people and that is placing a strain on our military. I believe we must proceed very, very carefully before any further reductions are considered.

I am concerned that our problem may be more basic than these issues I have just mentioned. I have come to this Senate floor many times over the years and have spoken repeatedly in the Armed Services Committee to voice my concerns over the drawdown in our end strength. In my view, I don't believe we should have gone below 1.6 million in our active duty end strength.

I am concerned that with fewer than 1.6 million in end strength our military strategy becomes a bit of a myth, Mr. President. I don't think we can fight two contingencies today with an end strength of 1.4 million. I'm not confident we could repeat Desert Storm and embark on a second contingency if something broke out in Korea.

1.6 million is not a number I pulled from thin air. Rather, it is based on a time-proven formula that requires a force that basically is divided in three. One third of the force is forward deployed and fighting, one third of the force is training for deployment or in transit and one third of the force is maintaining the other two-thirds—

manning the Pentagon, plowing the runways, etc.

In the Persian Gulf, we had about 575,000 Americans deployed. That's one major regional contingency or one major theater war (MTW) as we are now calling them. To repeat Operation Desert Storm, we need an end strength of at least 1.6 million. Today, we appear to be falling below the manning levels necessary to conduct our peacetime operations let alone credibly maintain a combat force capable of carrying out two nearly simultaneous major operations.

Mr. President, let me add at this point that I believe those commitments are important. We have alliance deployments in Japan, Korea, and Europe. We are conducting peacekeeping operations on the Kuwait border and in the Western Sahara. Our so-called ''Operations Other Than War'' also require American service members to be deployed to the Sinai, to Bosnia, to the Persian Gulf in Kuwait and Saudi Arabia and on the border between Peru and Ecuador. We've had deployments to Rwanda, Angola, Somalia, Haiti and Cambodia to name a few other operations that have all contributed to the services' high OPTEMPO and PERSTEMPO. I support these operations.

We literally have saved millions of lives through our presence in troubled areas of the world and I believe that that is an appropriate use of our military forces. The cold war may be over but the killing has not stopped. The United States has no territorial ambitions but we do need to remain engaged. The constant demands on our personnel around the world, however, are not without consequence. We are asking the men and women in our military services to be deployed for longer periods and more often than we have in the past. They have served well through a difficult and turbulent period.

I understand, and I hope my colleagues understand, the rationale for continued reductions in our end strength. End strength cuts are being made in order to generate cash to pay for modernization programs. I agree that our service members deserve the best and most modern equipment available but I do not agree that reductions should be made simply to generate cash. Even if modernization programs can reduce manpower requirements in the long term, in the near term, we still need people to carry out our important worldwide commitments. The time has come to step back and consider how we are going to achieve our goals. We may need more funding for modernization. In my view, we also need funding for more people.

We also need to impose more discipline before simply raising the topline. We should have given the Department base closure authority so we could get unneeded bases off the books. And we should impose more discipline on ourselves. This year we added about $2 billion in items that the Services didn't request in the procurement and research and development accounts. We added over $600 million in military construction add-ons. It is only in the past few years that the Congress has agreed that when adding military construction projects, those projects should at least be projects that the Defense Department wants. Even meeting that criteria, I am not sure that annually adding hundreds of millions of dollars for military construction projects just to ''bring home the bacon'' is necessarily the best approach to establishing and funding national security priorities.

I am supporting this conference report because on balance I believe it is a good conference report but I do believe that the Congress needs to focus more carefully on true spending priorities particularly as we are learning that there may be some readiness funding problems.

HELPING OUR MILITARY AND SUPPORTING OUR DIPLOMACY

Mr. BIDEN. Mr. President, I support the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999. Naming this bill after my good friend STROM THURMOND is a fitting tribute to one of the Senate's greatest defenders of America's military interests. I urge everyone to take a minute to read Section 1, which highlights Senator THURMOND's distinguished record of service and leadership.

As always, finding the right compromises to protect our national security while still living within our budget caps has been hard. Recent events in Iraq and Kosovo, and the attack on our embassies in Tanzania and Kenya are stark reminders of why our diplomatic efforts must be supported by a robust military.

I compliment the Committee on Armed Services, under the leadership of Chairman THURMOND and Senator LEVIN, for its dedicated effort to address some of our nation's critical national security needs. While I do not agree with everything in the conference report, on balance I believe this bill does a great deal of good.

On the personnel front, I know that all of us are pleased with the 3.6 percent pay raise. We know that our patriotic men and women in uniform do not serve in order to make money, but that doesn't change the needs of their families and themselves for adequate recompense. This is a solid step in the right direction.

Along the same lines, I thank the conferees for joining me in supporting an increase in hazardous duty incentive pay for mid- and senior level enlisted aircrew personnel. This necessary increase reflects our commitment to the experienced aircrew personnel without whom our planes could not fly vital missions in Bosnia and Iraq.

I was also pleased to see that this bill recognized the increasingly vital role of our Guard and Reserve personnel in the new Total Force. As that old Oldsmobile commercial said, ''this is not your father's'' military. Guard and Reserve personnel are absolutely vital to meeting America's leadership commitments around the world, to protecting communities here at home, and to defending national security. Among other things, this bill authorizes the payment of selective reenlistment bonuses, increased funding for Guard and Reserve training, the restoration of up to 800 military technicians (dual-status), and funds for the Guard's Youth ChalleNGe program and STARBASE program.

The conference report continues Congress's effort to address the strains on our ability to provide high quality health care to our military retirees. Both houses of Congress are agreed that more work needs to be done in this area and the demonstration projects included in this year's bill are part of that process.

In looking at some of the provisions in this bill that address foreign relations issues, I am less sanguine. As I said when the Senate dealt with this bill, I do not support the Sense of Congress provision that endorses NATO missions with ground forces that would not include any American troops. This is a dangerous precedent that encourages the erosion of American leadership in NATO.

This bill also addressed satellite transfers. While we do not want to handicap America's satellite manufacturers and telecommunications firms, the most important consideration must always be to safeguard national security. The changes made in the licensing system appear to make sense, despite their being adopted on the basis of a very incomplete analysis of a complex issue. Transferring licensing authority back to the State Department—the same agency that licensed the controversial Loral satellite launch in February 1996—may help, so long as the State Department is given the resources to do the job right. This conference report permits the Department of State to keep all the fees it collects for registration by the Office of Defense Trade Controls—the office which administers licenses for military exports—a sensible approach that is also contained in the Department of State authorization bill. Now the Commerce, Justice, State appropriations conference must adopt a similar provision; otherwise we will be giving the State Department an unfunded mandate that it will be unable to fulfill. We run the risk of exacerbating the problem of perpetually under funding of our foreign policy tools.

One provision addressing foreign policy that I was very pleased to see retained is the amendment that I authored calling for a report on the peaceful employment of former Soviet experts on weapons of mass destruction. The slightly revised provision is now found at section 1309. Section 1309 requires detailed reporting on the

former Soviet experts who are at risk of recruitment by a rogue state or terrorist group. I am confident that this language will not require the Department of Defense to produce an impossibly detailed analysis. I am pleased to note that the revised provision will permit the Secretary of Defense to inform Congress of ways to increase the number of former Soviet arms experts whom we assist in their transitions into new occupations. That is a vital national security objective, and it will become even more vital in the coming years as Russia's nuclear establishment is substantially downsized and more of their nuclear weapons experts are left to find new ways to earn a living.

In conclusion, Mr. President, the Strom Thurmond National Defense Authorization Act is a comprehensive bill that addresses many of our military needs. As I have said, there are some provisions that concern me. But, overall, I believe this bill provides some of the bricks that make up the foundation of our national security policy. It takes important steps to improve the quality of life for our most critical national security asset—our military personnel. My overall concern continues to be that it should not take terrorist attacks to realize that spending more on our first line of defense—our foreign policy—is an equally vital part of our national security policy.

SEC. 1512

Mr. LEVIN. Mr. President, I wish to enter into a colloquy with the distinguished senior Senator from South Carolina, the Chairman of the Armed Services Committee, after whom this defense authorization bill is named.

Section 1512 of this bill requires the President to certify to Congress 15 days prior to any export to the People's Republic of China of missile equipment or technology, as defined in the Annex to the Missile Technology Control Regime, that such export is not detrimental to the U.S. space launch industry, and that such export will not measurably improve China's missile or space launch capabilities.

The intent of this section is not to prevent the export of commercial communications satellites to the PRC, consistent with U.S. law and national security and foreign policy interests, nor to harm our domestic satellite industry. The purpose of this section is to ensure that exports of such satellites and related technology to China will not harm U.S. security. As long as sufficient export controls are in force and are being enforced, such exports are consistent with our national security.

Furthermore, this certification requirement for exports to China is not intended to prevent the export of commercial technology for emergency repair of civilian equipment, such as navigation systems required for safe flight of passenger aircraft. If a U.S.-made aircraft requires emergency repair or replacement of its navigation system while in China, we would not want to delay such required repair unreasonably.

I wish to ask the Chairman if he shares this view of Section 1512.

Mr. THURMOND. Mr. President, I agree with the view expressed by my colleague, the Ranking Minority Member of the Armed Services Committee. He has stated correctly the views of the Senate and the House in agreeing to Section 1512 during the conference on the defense bill.

With regard to concerns that the requirement for a 15-day advance certification concerning the export of items listed in the MTCR Annex to the PRC would delay the ability to provide spare parts for in-service civilian commercial aircraft in an emergency while in the PRC, it is not the intent to delay the export of items for emergency repair of in-service civilian commercial aircraft while in the PRC.

This view, however, should not be mistaken as a green light to stockpile technology and spare parts which are on the MTCR Annex above what is necessary to provide emergency service for in-service commercial aircraft.

Mr. LEVIN. I thank the distinguished Chairman of the Armed Services Committee for helping to clarify the intent of this provision.

C–130 TRAGEDY

Mr. WYDEN. Mr. President, in November 1996, there was a tragic accident off the coast of California that claimed the lives of 10 out of 11 airmen, the crew of an Air Force Reserve C–130 aircraft out of Portland. All of these crewmen were from my home state of Oregon.

This was a devastating loss for all of us, but most of all for the families of those airmen who lost their lives. After any tragedy like this, the first question on everyone's minds is ''why?'' Why were my loved ones taken from me? This is what the families of these airmen wanted to know, but no one would give them a straight answer.

After many, many months of frustration, these families came to me and my colleague from Oregon, Senator SMITH, to get the Air Force to tell us exactly what happened.

As a result of working with these families, with the Air Force, and with the committee staff, and with Senator LEVIN in particular, we were able to craft some language that is now included in the Defense Authorization Conference Report that we are considering today. This language takes a two pronged approach to dealing with the pressing issues the families have raised: improving crash investigations, and eliminating the secrecy in which these investigations are shrouded.

Specifically, the language directs the Defense Department to review the way it conducts aviation accident investigations so that they are conducted in as thorough and objective a manner as possible, including making sure crash investigators receive the best training, and ensuring that the military department coordinate and share information on fleet safety. The bill also urges the Pentagon to seek the advice of the National Transportation Safety Board in improving investigation procedures, and I intend to make sure their valuable input is part of their review.

Secrecy has long been the hallmark of these investigations and has kept loved ones in the dark about what happened and why. We have worked to reduce the secrecy involved in the investigations of tragedies, and this legislation takes a solid step forward in providing families and the public with better information.

That's why this language also requires the Department of Defense to issue regulations to provide to family members periodic reports on the progress of investigations. I also spoke with Secretary Cohen about this recently, and he has pledged to make a solid effort to make sure families are kept informed of the progress of investigations.

It's important that we eliminate secrecy from these proceedings. The last thing we should do is add to these terrible tragedies by keeping the families in the dark about the status of these investigations. From day to day, from week to week, from month to month, these families had to cope with not only the incredible pain of losing a loved one, but with the incredible frustration of not knowing the status of the investigation into their deaths. This new language seeks to put an end to this type of treatment. We owe it to the men and women who give their lives for their country.

TRITIUM PROVISION

Mr. LOTT. Mr. President, yesterday the Chairman of the Armed Services Committee, Senator THURMOND, along with Senators WARNER, SMITH, and KYL entered into a colloquy on the tritium provision in the pending National Defense Authorization Act Conference Committee Report.

While I was not available to participate in that colloquy, I would like to make a few comments on this subject.

First and foremost, the restoration of tritium production is absolutely critical. Without tritium, our entire nuclear deterrent would be left inoperable. Our nuclear warheads cannot function without replacement tritium. And time is wasting.

For those who do not know, tritium is a radioactive gas that is an essential component of modern nuclear weapons. It decays at a rate of five-and-a-half percent per year, so it has to be continually replaced. We have not produced tritium in this country since 1988, when the reactors at the Savannah River Site in South Carolina were shut down. Since that time the Department of Energy has examined countless options and technologies, but has not yet selected a new source. We cannot afford to delay this program. The potential costs of delay are too great.

The Chairman of the Armed Services Committee, Senator THURMOND, had a difficult Defense Authorization conference with the House this year.

Chairman THURMOND and the other members of the Committee negotiated over 570 legislative provisions and more than 1,000 funding differences with the House. The final result was a strong bipartisan bill. In fact, for the first time in many years, all the members of the conference, both Democrats and Republicans, signed the final conference report.

Tritium was one of the most difficult issues that had to be addressed. The House and Senate bills had wildly differing provisions on this topic. In addition, there was a Presidential veto threat on one of the House tritium provisions. Chairman THURMOND, as always, put all other interests aside and delivered a compromise that put the national security interests of the U.S. ahead of all other interests. I am confident that his provision will keep the tritium program moving forward.

However, there remain some disagreements as to the best method to produce tritium. It's not my place to comment on that today. I will say that under this conference agreement, Energy Secretary Richardson will be required to select his preferred technology in December of this year. I expect him to meet that requirement.

I might also say to Secretary Richardson that the conference report requires him to submit along with the President's fiscal year 2000 budget request, a plan to implement whichever technology he selects in December. I expect him to identify the funding requirements, schedule, and legislation necessary to restore tritium production in time to meet Defense Department requirements. In order to be credible, his implementation plan must include adequate funding in fiscal year 2000 and beyond.

This matter is too important to the national security of the United States to be undermined by deficient budget requests or lack of attention on the part of DOE.

Furthermore, I put my colleagues on notice that I intend to be fully engaged in the debate when this matter comes before the Senate next year. Let me assure all interested parties that I intend to ensure that only one interest will dictate the outcome of that debate—the national security interests of the United States. The safety and security of the American people require all of us to ensure that there are no further unnecessary delays—for any reason.

Mr. BINGAMAN. Mr. President, I'd like to join my colleagues in saluting the chairman of the Armed Services Committee, the distinguished Senator STROM THURMOND, whose leadership, together with the ranking member, Senator LEVIN, has produced the fiscal year 1999 Defense authorization bill which is named in the chairman's honor. Thank you, Mr. Chairman, for your untiring efforts, both for putting together this bill and for your long and distinguished service to our nation. We are a grateful Senate and a grateful nation.

Achieving this year's defense bill has been no easy task. Every defense budget represents the outcome of an annual debate concerning competing national security priorities. Everyone is familiar with the litany of our defense needs: procurement and modernization, quality of life for defense personnel, operations and maintenance, research and development, training, medical care, and so forth. This year is no different.

Much has been said about the lack of funding for procurement and modernization of military equipment. Certainly, by historical standards we are far below cold war levels. But our defense needs have changed and will continue to do so. We need to look carefully at the capabilities and quantities of weapons that we will need in the future—particularly in areas where technology could provide lower cost alternatives of getting the job done.

Nevertheless, in this year's conference report the Congress is taking a step towards meeting those procurement needs. Funding for procurement is up from $49.1 billion requested by the President to $49.9 billion authorized by the conference.

The conference also took steps to increase funding for quality of life priorities. Funding for military construction and family housing was increased from $7.8 billion to about $8.5 billion.

But those increases come at a cost. In balancing priorities while remaining within the budget agreement cap, this budget pays the bill by reducing funding in other categories. Funding for research and development, operations and maintenance, and Department of Energy defense activities, for example, were funded at lower levels than requested by the Administration.

Are those tradeoffs the correct ones from the point of view of our national security? Or are they the outcome of partisan negotiations to meet parochial needs?

I remain concerned that the teamwork that's needed between the Department of Defense, the Administration, and the Congress to produce a defense budget that meets our real military priorities is flawed. While the Congress took steps to increase procurement funding, many of those purchases do not reflect the priorities stated by the military services themselves. The cost of those purchases were bought by cuts to readiness accounts that must now be repaired through an emergency supplemental agreed to by the President.

Similarly, we risk mortgaging our long term security future by cutting funding for research and development, particularly for basic research. I am pleased, however, that this bill includes a provision that sets successively higher goals for research and development funding during the next decade. I am hopeful that implementation of that provision can enable us to avoid having research and development remain the billpayer for future defense spending increases.

I applaud this bill for its many specific provisions that serve the simultaneous interests of my New Mexico constituents and the nation's security.

The bill contains $4.3 billion for weapons activities at the Department of Energy National Labs, approximately half of which will support work being done at Los Alamos and Sandia.

That work will support the stockpile stewardship program that will enable us to ensure the safety and reliability of our nuclear weapons stockpile without building new ones and without testing old ones.

I am hopeful that continued funding for the stockpile stewardship program will enable us to move forward in the Senate with ratification of the Comprehensive Test Ban Treaty next year.

The bill also includes essential funding for the Cooperative Threat Reduction and the Initiatives for Proliferation Prevention programs intended to prevent the proliferation of nuclear weapons and materials through cooperative efforts with Russian nuclear laboratories and scientists. Our laboratories in New Mexico are working closely with their Russian colleagues to benefit the security of both nations against the threat of weapons of mass destruction in the hands of terrorists or rogue governments.

The bill also provides essential funding to remedy the disrepair of the nation's finest weapons testing facility, White Sands Missile Range, in southern New Mexico. Without those funds, we won't be able to assure the technologies and military capabilities to have the effective fighting forces we will need for the nation's future defense.

The bill also includes key quality of life improvements for our military personnel at Cannon, Kirtland, and Holloman Air Force bases. Units from those bases have served honorably and effectively in Bosnia and the Persian Gulf. The personnel and their families assigned to those bases appreciate the support they are given in this year's defense bill.

Mr. President, I support this conference report and urge my collegues to vote in favor.

Mr. MURKOWSKI. Mr. President, let me commend the senior Senator from South Carolina, Senator THURMOND, and Senator LEVIN for having completed work on this important conference report on the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999. I particularly want to express my appreciation to Senator THURMOND and Senator WARNER and their staff for working with me and my staff to address the provision that the House of Representatives had attempted to include (section 1216) which would have negatively impacted the export capabilities of U.S. vendors of civilian nuclear power equipment. I am pleased to say that the Senate conferees were able to replace the House language regarding nuclear exports with an acceptable notification requirement in Section 1523.

Mr. President, as some of my colleagues are aware, the House of Representatives had added language that would have changed the reporting requirements for nuclear exports and added a congressional disapproval process. The change in the export law contemplated by the House of Representatives was unwise and unnecessary.

A change in the reporting requirements was unnecessary because the Nuclear Regulatory Commission closely regulates the export activities of U.S. nuclear vendors. The nuclear export licensing process by law requires not only public notice of export license applications as soon as they are received by the N.R.C., but also the opportunity for public intervention with the N.R.C. prior to issuance of a license. Moreover, the N.R.C. is not allowed to issue an export license for any nuclear equipment and technology unless the government of the recipient nation has negotiated, signed and implemented a bilateral agreement for nuclear cooperation with the United States. Such agreements provide the United States with a broad array of inspection rights and control over the fuel cycle. I am unaware of any allegations that, under this regime, the United States has exported any nuclear material or technology which has been diverted for military or proliferation purposes. Since our export control system appears to be working, it is difficult to see why it should be altered or supplemented.

A change in the reporting requirements was unwise because it would negatively impact U.S. exporters of civilian nuclear power equipment without advancing any national security goal. Although the author of the provision made clear that his proposal was designed to add restrictions to trade in civilian nuclear power equipment and technology with China, it would have impacted many other countries, including Brazil, Argentina, South Africa, Kazakhstan, Ukraine and Taiwan who purchase U.S. nuclear goods. I am convinced that, faced with new restrictions, all these countries would be extremely reluctant to deal with U.S. suppliers. Certainly, European and Canadian suppliers would use such new restrictions as part of their commercial armory to argue that, for these countries, dealing with U.S. suppliers is complex, time absorbing, and subject to political whims, while their procedures are simple and straightforward.

Some members may want to block trade with China in civilian nuclear goods and technology. But, my colleagues should recall that President Clinton sent to Congress the certifications necessary to implement the Reagan Administration's 1985 Agreement for U.S.-China Peaceful Nuclear Cooperation on January 27, 1998. The Congress considered those certifications for 30 legislative days, as provided by law. Existing law provided the opponents of the certifications with every opportunity to challenge the Administration's determination. However, no attempt was made to pass a resolution of disapproval of those certifications, and consequently, the 1985 Agreement went into effect on March 19, 1998. Any changes made after the fact would be seen as aimed at impeding or delaying such cooperation and, as such, could seriously undercut the non-proliferation assurances China provided as a condition of implementing the nuclear cooperation agreement. Moreover, as a matter of principle, moving the goalposts regarding certification after the fact is unfair.

Mr. President, again, I want to thank the managers for their assistance on this important matter.

Mr. FEINGOLD. Mr. President, I come to the floor today to register my opposition to the fiscal year 1999 Department of Defense Authorization conference report. Sadly, we continue to spend precious military resources on unneeded, unwanted, pork-barrel projects, all at the expense of our military's legitimate needs.

Mr. President, our military needs to be lean and mean, not weighed down with unnecessary, unwanted, expensive pork. We don't need to spend more money, we need to spend money more wisely. Our military leaders have begun to recognize this and some of my colleagues in Congress have recognized it. I hope we can work together toward a more wisely funded military.

I am not alone in my call for more efficient and accountable military spending. Lawrence J. Korb, President Reagan's Assistant Secretary of Defense, recently issued a rebuke of the state of the Pentagon's military spending. He said,

> The problem is not lack of money or aging equipment . . . the Pentagon is buying the wrong weapons. The military behaves as if it is still in an arms race with the Soviet Union, buying $2 billion bombers, $3 billion submarines and $5 billion aircraft carriers . . . Russia, China, Iran, Iraq, North Korea—throw in Libya or whoever else you want—all of them together don't spend as much on the military as we do.

Mr. President, I couldn't agree more. There is no Cold War. It's over. We need to move toward a 21st century military force. This conference report fails to adequately modernize our armed forces and move toward that goal.

As my friend from Arizona, Senator MCCAIN, has so eloquently stated year after year, it's unconscionable that we spend billions of dollars on pork-barrel projects that the Pentagon doesn't need and doesn't want.

Mr. President, we can't afford to pretend we're still dealing with the Cold War Soviet threat. Military leaders agree that we need lighter, faster and more agile forces. This strategy does not include wholesale purchase of cumbersome B–2 bombers, new attack submarines, or Cold War-era heavy tanks.

One particular program epitomizes the worst of pork-barrel politics. The C–130 air cargo planes have sapped billions of dollars from vital military programs even though our military leaders are incessant in their pleas to end the harmful practice of forcing the Pentagon to buy more planes than it needs.

Mr. President, since 1978, the Congress has added a whopping 263 C–130s for which our Department of Defense has not asked. That's right—the taxpayers have paid for 263 C–130s the Pentagon didn't need. If you lined them up wing to wing, that would be six and a half miles of unwanted airplanes, with the taxpayers on the hook for $22.4 billion. This assault on military planning hamstrings readiness, equipment, and compensation for our soldiers. As we all know, these are the precise areas which the Joint Chiefs of Staff testified this week were at greatest risk. Politicians who want to bring home the bacon at taxpayers' expense should not be second-guessing the judgment of our military leaders in this way.

This conference report follows in the dubious footsteps of its ancestors by authorizing 7 C–130s, while the Pentagon asked for only one. Not only does it take from other procurement money, but DoD must divert operations and maintenance money to look after all these unneeded planes. This is the height of irresponsibility and shortsightedness.

Finally, Mr. President, I would like to congratulate my distinguished colleague from Iowa, Senator GRASSLEY. He held a hearing on Tuesday to discuss accounting fraud at the Pentagon. His continued efforts to rein in obvious and debilitating fraud at the Pentagon need to be applauded. Perhaps the Senator's most important finding is summed by his quote, ''If we put adequate controls on the money we have, there should be no need for more defense spending.''

That, Mr. President, sums up my point, as well. We don't need to throw good money after bad with pork-barrel spending in our military budget. What we need to do is spend our money more wisely. That is how we will move toward a lean, efficient, and effective military. This conference report does not move toward the new 21st century military force.

I thank the chair and I yield the floor.

Mr. MCCONNELL. Mr. President I rise today to discuss the Defense Authorization bill. I support this bill and believe the Conferees have acted appropriately and supported the vital needs of our national security. However, I strenuously object to one provision that I believe is a grave mistake.

Section 1075 of H.R. 3616 inserts language which would have the effect of changing the tax structure of the Commonwealth of Kentucky. Mr. President, this is a terrible and misguided assault on the rights of Kentucky to levy income tax. I believe this decision sets a dangerous precedent and will harm citizens of my state.

Fort Campbell is a unique military post which straddles the Kentucky-Tennessee state lines. As a result, many residents of Tennessee go to work every day across the border in the Commonwealth of Kentucky. Currently, those who work on the Kentucky side of Fort Campbell are subject to Kentucky's state income tax. Section 1075 takes away Kentucky's ability to legally enforce its state tax on these employees. As a result, Kentucky will lose millions of dollars a year in revenue. I am unable to come up with any justification for the Armed Services committee to impose its will on the Commonwealth of Kentucky in this manner.

Mr. President, for the Armed Services committee to take this action astonishes me. This issue should be debated and resolved by the impacted states. By imposing this solution, the Armed Services committee has effectively foreclosed any opportunity for future negotiations.

My colleague from Kentucky, Senator FORD, has made lengthy remarks on this issue, and I agree with much of what he said. However, I do take offense at the partisan barbs, as they are unwarranted and unproductive. Perhaps the diatribe was cathartic, but cheap shots get us no closer to the solution.

That said Mr. President, like my colleague from Kentucky, I will vote for final passage of this bill. It contains a number of items that I encouraged the committee to adopt, and I thank them for their consideration.

Ms. LANDRIEU. Mr. President, on Monday, the Senate adopted the conference report on H.R. 4103, the Department of Defense Appropriations bill. I wanted to take this opportunity to discuss a relatively small part of this budget which has a huge impact on my state.

Outside of the City of New Orleans, we have one of the few remaining shipyards in the country that still builds ocean-going ships for the Navy. Avondale Shipyards is a key employer in the area. With over 5,000 working men and women, it is the largest private employer in the region. Louisiana has a proud maritime tradition, and has a particular expertise in ship building. As a shipyard of tremendous capacity and infrastructure, and the host of the Maritime Excellence Center, Avondale has played an important part in the development of this industry.

However, Avondale has also maintained a record of labor relations which Judge Evans of the National Labor Relations Board termed ''outrageous and pervasive.'' This is not the image of Louisiana's growing maritime industry that I want projected. I believe that Louisiana should be the world leader in shipbuilding, but I also believe that we cannot attain that status through substandard wages and unsafe working conditions. Many manufacturing sectors in our country have been faced with international competition that created difficult times. The way these industries rebounded was not to turn back the clock on progress made in working conditions and wages. Instead, our industrial sector did just the opposite: they grew more hi-tech and more specialized; they invested in their workers, and they invested in new technologies. This is the only route to true success and leadership. Louisiana's shipyards will never be able to compete with countries like China and the Phillippines on the basis of wages—the key is to concentrate on American strengths: technology, craftsmanship and quality.

That is my goal for Avondale. To help them become a world leader, and transition away from practices which threaten that objective. The seemingly endless dispute between management and labor at Avondale is a huge impediment to the process. I am ready to work with anyone who in good faith seeks to resolve the problem. In this spirit, I have talked to the Navy about Avondale and inquired about the significance of labor relations in Navy contracts. Let me be clear, I did not make these inquires to block contracts from being awarded to Avondale. It benefits no one to have workers loose their jobs and the state diminish its industrial base in order to make a point. This is especially true when we should have a Fifth Circuit Court of Appeals decision on the union election in the near future.

I voted for the Defense Appropriations bill, because I believe in a strong defense. I also voted for the Defense Appropriations bill because I believe in a strong Avondale. The government provides over eighty percent of Avondale's contracts. The shipyard cannot function without them. I have no intention of jeopardizing Avondale's future. My sole objective is to facilitate my state's future success in the maritime field. Avondale must be part of that success. This long-standing labor dispute should be resolved at the earliest possible time to achieve that end.

Mr. DOMENICI. Mr. President, I rise today to offer strong support for the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999. As several of my colleagues in the Senate have also recognized, we owe a great deal of gratitude to Senator THURMOND. As a soldier and as a Senator, he has fought to defend our country and safeguard our national interest.

I thank Senator THURMOND his unceasing commitment and untiring service to this country and its institutions.

Mr. President, this legislation contains many positive things for the state of New Mexico—both in the programs funded and the changes made to enhance research and development efforts.

The most significant contribution made by this legislation to R&D efforts in our state will be realized by eliminating several barriers to cooperation between national laboratories and the private sector. The partnerships among our federal laboratories, universities, and industry provide important benefits to our nation.

A substantial amount of benefits are attainable in New Mexico, given the unique assets in this state. These partnerships help to create innovative new products and services that drive our economy and improve our quality of life.

I am pleased that this year's conference ruled favorably on so many of the requests for increases that I put forward. Many of these increases will leverage unique assets and capabilities in New Mexico to ensure that our national interests are protected.

The bill authorizes $4.5 billion for Department of Energy defense activities, much of which is done at Sandia National Laboratories and Los Alamos National Laboratory (LANL), in addition to DOE's Lawrence Livermore facility in California. Approximately $2.5 billion of this authorization will be spent in New Mexico.

In addition, the Defense Environmental Restoration and Waste Management programs are authorized at $5.44 billion. Of that, approximately $415 million will be spent in New Mexico for waste management functions, environmental restoration activities, technology development efforts, nuclear materials and facilities stabilization functions, and a variety of cost-cutting and program support initiatives.

Several other important items for defense efforts in New Mexico that are authorized in the bill.

For example, this year's authorization for the High Energy Laser System Test Facility (HELSTF) at White Sands Missile Range is $23 million, including $8 million for solid state laser research. An additional $10 million is authorized for further research in the Theater High Energy Laser (THEL), an effort jointly funded and supported by Israel.

The Exploratory Development of Advanced Weapons technology at Kirtland's Air Force Research Laboratory is authorized at $129 million for the coming year.

A total of $40.2 million is also authorized to support the Advanced Radiation Technology Program at Kirtland's Air Force Research Laboratory (AFRL). The lab is using its expertise in laser technologies to develop a new deep space imaging system, in addition to a special interactions development program.

$24 million is authorized for Space and Missile Rocket Propulsion Program. The Air Force Laboratory at Kirkland is involved in this program.

The Ballistic Missile Technology Program is authorized at $16. This funding was not included in the President's request. Kirkland AFRL and White Sands Missile Range are involved in this program.

$75 million is authorized for the Advanced Spacecraft Technology Program, $32 million more than the budget

request. These funds will advance space plane development, the Clementine microsatellite program at Kirkland AFRL, and the Satellite Orbital Transfer Vehicle which is worked on at the New Mexico Engineering and Research Institute.

In a related endeavor, a total of $10 million is authorized for the Scorpius Low-Cost Launch program. This program utilizes assets at New Mexico Tech in Socorro and will be tested at White Sands in the coming months.

The Airborne Laser Program is authorized at $235 million. The Special Programs Office for this critical Air Force effort in theater missile defense is located at Kirkland, and this program relies heavily on basic research in directed energy and adaptive optics at the AFRL there.

The Air Force Operational Test & Evaluation Center (AFOTEC) at Kirkland is authorized at $29.5 million. This is $5 million more than the President's budget request and will support the Initial Operational Test and Evaluation Center's independent operational tests to evaluate weapon systems operational effectiveness and suitability.

The Defense Advanced Research Projects Agency's (DARPA) Flat Panel Display Program is authorized at $41. This includes an earmark of $7 million for High Definitions Systems in integrated command and control technology.

The Warfighter Information Network is authorized at $132.1 million for procurement of weapons communications equipment, including the Echelon Above Corps (EAC) communications program. This authorization level includes a $35 million increase to continue modernization of the Army's tactical voice and data communication system. Laguna Industries at the Pueblo of Laguna is involved in producing these shelters.

$21.9 million is authorized for Ground Penetrating Radar Program & Landmine Warfare & Barrier Technology, including a $2 million increase for a ground radar and vehicle mounted mine detector.

Also, this legislation authorizes military construction for several projects critical to the viability of New Mexico's military installations.

This bill authorizes $6.8 million for the Nuclear Weapons Integration Facility and $1.8 million for the Fire Training Facility, as well as $6.4 million to improve family housing at Kirkland.

Holloman is authorized $1.3 million for improvements to its War Readiness Materials Warehouse and $11.1 million to construct a state-of-the-art physical fitness center.

$3.6 million is authorized for improvements to family housing at White Sands Missile Range, and a $3.3 million authorization is included to allow New Mexico's National Guard to build the Taos Armory.

An additional $8 million is authorized to support the Big Crow Program Office—DoD's only asset for testing high power stand-off jamming capability in electronic warfare scenarios.

These are some of the major programs related to U.S. military capabilities and research and development efforts that reside in the state of New Mexico. I thank Chairman THURMOND and the Senate Armed Services Committee for recognizing and supporting the many contributions to our national security needs that are based in New Mexico.

Unfortunately, however, I cannot pretend that the measures contained in the legislation will ensure U.S. security. I cannot in good conscience purport that this legislation—or any legislation—can solve the current crisis faced by the armed forces.

The strength of the U.S. military cannot simply be measured in numbers of soldiers or the state-of-the-art weapons they possess. The fortitude of this country's military is not only based on advanced weaponry, but rather is also a reflection of the strength of its morale.

Mr. President, the morale of our military is under siege. When retired colonels are heard commenting that in their half a century of hanging around soldiers they have seldom seen the cutting edge of our fighting forces so dull, nor morale lower, there is good reason for concern. Rather than focusing on the hardware issues encapsulated in the term ''modernization,'' I would like today to emphasize the problems with readiness, morale and quality of life. Equipment is secondary to the well-being of the men and women in uniform. The best weapons cannot bring about victory without adequate training in their use and the firm loyalty of the soldier to buttress the military objectives fought for.

We are now in our fourteenth year of decline in defense spending. What can no longer be ignored is that the increase in non-traditional deployments coupled with down-sizing is steadily eroding readiness and morale.

Our reduced force structure is overextended. Overextension is eroding retention rates, quality of life, operational readiness, and, most importantly, morale. Whereas the U.S. military had 22 foreign missions during the 1980s, they have already been involved in 36 foreign missions since 1990.

At the same time, our forces have been down-sized by 35 to 40%. In addition, forward basing has decreased by two-thirds—from 39 major installations to 13. This translates into more forces based in the U.S. while deployments are overseas.

The result? More frequent and longer deployments, due to down-sized forces and up-sized involvement in foreign missions. The OPS TEMPO required under these constraints lead to grueling days even after returning home from prolonged overseas missions.

Some soldiers are currently required to spend up to 150 days away from their families annually. Then, upon returning home, they still have too many additional duties to really spend quality time at home.

Retention rates continue to plummet, especially in the Air Force. This is not happening because we are not offering generous pay bonuses to re-enlist. Last year, 800 pilots refused re-enlistment bonuses of $60,000. The Air Force is planning to increase these bonuses to $110,000, but the Air Force is also planning for this problem to get worse.

Why? Although military planners contend that competition with a booming U.S. economy and the private sector is the cause for defection, the reality is more complex and points to the same problems already discussed. Heavy deployment schedules and no down-time between deployments cause stresses on service personnel, especially those with families.

A related issue is that the men and women in our armed forces increasingly believe that their loyalty is a one-way street. In addition to demanding more for less from our soldiers, their quality of life is also eroding.

The United States, the wealthiest and most powerful country in the world, currently has military men and women who require food stamps to provide for their families. The Defense Department says it would be ''too expensive'' to solve this problem.

Housing for our military families is also inadequate. According to a study from the Defense Science Board, 62 percent of our barracks and 64 percent of our family housing are unsuitable. In the face of this, the President's request for military construction and family housing for 1999 was $1.1 billion less than Congress provided in 1998.

Some in Washington are saying this is a money problem. It is a money problem, but it is also more than that. It is also a leadership problem, and it is a question of how competently our defenses are being managed.

Our pilots and other specialists are leaving the services in droves not just to get better paying jobs; they are also leaving because they are being worn out; and they are not getting the support they need from their own leadership. They are being worn out by repeated deployments. And they are not always convinced that what they are being asked to do makes sense.

Back home their spouses resent the military for turning their families into single-parent households. And the quality of life offered to these military families can't begin to compensate.

Is it any wonder that with a booming economy and plenty of good jobs available in the private sector that our soldiers are voting with their feet? Is it any surprise that given inadequate housing for the families back home that they rarely see due to deployments abroad for missions they don't understand that our soldiers are frustrated, ill-prepared and low on morale?

Perhaps most disturbing, I am beginning to see too many reports that the

leadership is not addressing the real problems. There seems to be an emerging question of the confidence in our military's senior leadership. There is a growing concern that the top leadership is not willing to make the hard decisions to restrain our military missions to the available human and material resources or to expand those resources to meet the increasing demand.

That brings us back to the question of money. There is simply not enough money in the defense budget as it is currently projected to do everything that needs to be done. There is an effort underway to provide emergency supplemental funding for military readiness. I support that effort. However, this will not solve the bigger problems.

Our military leaders are beginning to agree. In a recent Armed Services Committee Hearing with the Joint Chiefs, U.S. military leaders finally conceded that they do, indeed, have a severe problem. The $1 billion in supplemental funding will help, but according to the most recent Joint Chiefs' testimony, between $10 to $13.5 billion would be necessary in the coming year to meet U.S. defense needs.

One thing is blatantly clear. We must strive to adequately feed, house, and train our most precious military resource—the men and women in our armed forces. To do this will mean more resources for our defense budget and it will mean better management of the resources—human and material—that we already have.

For next year, for the fiscal year 2000 budget, I believe, we need to start the new millennium by at least stopping the ebbing tide and end the 15 year decline.

Each year the Armed Services Committee is given the difficult task of balancing between current and long-term readiness under current budget constraints. In recent years, they have had the impossible task of ensuring that personnel, quality of life, readiness, and modernization programs are adequately supported, while funding levels remain insufficient to achieve that objective.

The Committee recognizes, as do most of us concerned about our national defense, that combat readiness of our armed forces is at risk. The risk is a function of older equipment resulting from inadequate modernization and a force structure too small to meet ongoing demands. Aging equipment and weary soldiers cannot possibly defend this country adequately. Nor can dominance result from this equation.

I am gravely concerned about preparedness, modernization and procurement. However, I am most concerned about the human element of our armed forces. The best equipment and the most rigorous training cannot compensate for too lengthy, too frequent deployments and time away from loved ones.

Mr. President, the solution is clear. We must stop the ebbing tide in our national defense budget. If we don't the hollowing out of our military forces will continue. Our national security will be at risk during a time of international uncertainty and growing threats. Our soldiers deserve better and U.S. citizens are counting on us.

Mr. THURMOND. How much time do I have remaining?

The PRESIDING OFFICER. Six minutes 10 seconds.

Mr. THURMOND. Mr. President, I want to thank the leadership of the Senate for their cooperation and support in bringing this conference report to the floor for approval of the Senate. The bipartisan support of both the majority and the minority leaders is critical to successful passage of the conference report of such magnitude.

The majority leader, Senator LOTT, a former member of our committee, recognizes the importance of this bill and has always given his full support and assistance in passing a bill of this nature. I thank him for his time and support and all he has done in this respect.

I extend my appreciation to the leadership staff and the floor staff for their assistance which is essential to passing this large, complex bill.

In that connection, Mr. President, I wish to especially commend Les Brownlee, staff director of the Armed Services Committee. He has rendered yeoman service to this committee, and I can't say enough in support of all he has done. George Lauffer, the deputy staff director, has also been most faithful and has done an outstanding job. We appreciate that and thank him for what he has done in this connection. I also wish to thank David Lyles on the other side, and those who worked with him, for their fine cooperation and support. They have been most cooperative and have rendered a great service.

Mr. President, we appreciate the work of two House Members. We thank FLOYD SPENCE, who happens to be from my State, for handling the House bill. He is an outstanding gentleman of character and ability, and I thank him for all he has done in cooperating with us on the defense legislation. IKE SKELTON, a Democrat, who works with Congressman SPENCE, has also been cooperative and helpful, and I express my appreciation to him, too.

I yield the floor.

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from the State of Washington, suggests the absence of a quorum and, without objection, directs that the time be divided equally between the two sides.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. 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. THURMOND. Mr. President, how much time do I have left?

The PRESIDING OFFICER. Two and one-half minutes.

Mr. THURMOND. Mr. President, I yield that to the able Senator from Texas.

Mrs. HUTCHISON. Parliamentary inquiry, Mr. President. Is it possible for me to ask unanimous consent to go into morning business rather than take from Senator THURMOND's time? I wanted to talk about the 40th anniversary of NASA.

The PRESIDING OFFICER. There is an order that a vote occur on the defense authorization bill at noon. The request is in order and will probably be charged against both sides.

Mrs. HUTCHISON. If that is acceptable, I ask unanimous consent to have 5 minutes to speak on the 40th anniversary of NASA.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

THE 40TH ANNIVERSARY OF NASA

Mrs. HUTCHISON. Mr. President, on October 1, 1958, the National Aeronautics and Space Administration (NASA) was created. No other Government agency better represents the hopes and experiences of our Nation during the course of its existence than NASA. To recall why that is so, let's look back to where we were 40 years ago.

In October 1957, the Soviet Union launched Sputnik 1, the world's first artificial satellite. Many have claimed this had a ''Pearl Harbor'' effect on the American people and galvanized public opinion in favor of an aggressive U.S. space program. Americans believed that the Soviet Union had gained a significant technological advantage over the United States—bomb shelters were built at an even more rapid rate as we turned our attention to the space race.

Then-Senator Lyndon Johnson, from my state of Texas, said that the launch of Sputnik was ''* * * a new era of history dawning over the world.'' He warned a Texas audience that, ''The mere fact that the Soviets can put a satellite in the sky * * * does not alter the world balance of power. But it does mean they are in a position to alter the balance of power.''

Shortly thereafter, Senator Johnson introduced legislation to create NASA and harnessed the energies, talents, and aspirations of a nation embarking on a bold, new enterprise. The act reflected a remarkable unanimity by the American people and a commitment to science and exploration.

NASA wasted no time in bringing America into the space race. Shortly after it was formed, NASA conducted several exciting programs that launched us ahead of the Soviet Union in our quest to conquer space.

One of the most important initiatives involved human space flight—Mercury's single astronaut program, Project Gemini's operations and Project Apollo to explore the Moon. These names conjure up strong images of fearless astronauts doing the impossible. In 1961, Alan B. Shepard became

the first American to fly in space. Of course, we remember him because he died just recently. In 1962, JOHN GLENN, who now serves with us in the U.S. Senate, became the first American to orbit the Earth. Project Gemini allowed two astronauts to travel in space. On Gemini IV, Edward White became the first American to conduct a space walk.

In 1969, just 11 years after the creation of NASA, and less than a decade after President Kennedy committed America to the project, Apollo 11 landed on the Moon and Neil Armstrong and Buzz Aldrin made the dramatic ''leap'' for mankind. NASA completed five more lunar missions and learned much about the origins of the Moon, as well as how to support humans in outer space. Twelve American astronauts walked on the Moon during the six Apollo missions. Nothing symbolizes the uniqueness of this great Nation better than the American flag flying on the lunar surface.

In 1975, NASA joined hands with its former competitor in the space race and cooperated with the Soviet Union to achieve the first international human space flight. This project successfully tested joint rendezvous and docking procedures for spacecraft from the United States and the Soviet Union.

In 1981, the advent of the space shuttle ushered in a new era of space travel and exploration. By creating a reusable launch vehicle, NASA was making access to space now more affordable. The disaster of the *Challenger* brought the shuttle program to a rapid standstill. It was a harsh reminder that the exploration of space is a dangerous and unpredictable undertaking. Seven astronauts gave their lives on that mission in an effort to further our knowledge of the universe. We owe them and their families our eternal gratitude and respect.

Two years after the CHALLENGER disaster, we returned to space. Through mid-1998, NASA has safely launched 65 shuttle missions. These missions have included a wide variety of scientific and engineering missions. There are currently four shuttles in NASA's fleet and NASA is working with the private sector to reduce the cost of space flight even more. Two experimental vehicles, the X–33 and X–34, are prototypes for cheaper, more efficient reusable launch vehicles that would provide commercial entities with access to space. I commend NASA for continuing to look to the future and the challenges that lie there.

One of our colleagues, JOHN GLENN, is scheduled to return to space on October 29th. It was in NASA's earliest days that JOHN GLENN made history by bring the first American to orbit the Earth. Now he is making history again by being the oldest person to fly in space.

Looking forward to the next 40 years, NASA's future is as bright as its past. NASA's core mission of any future space exploration will be man's departure from Earth orbit and journeys to the Moon or Mars. This will require extended, even permanent, stays in space and has led NASA to begin construction of the International Space Station.

In 1984, Congress authorized NASA to build the space station as a base for further exploration of space. A project of this magnitude was certain to face a multitude of unkonwns—and NASA has confronted many of them. As has always been the case, though, NASA will overcome these obstacles and we will reap the rewards of doing so.

For example, NASA has developed a unique technology, a bioreactor, that allows medical researchers to produce breakthrough results by creating ''artificial'' human tissues outside the human body. This bioreactor has provided new knowledge in cell science and tissue engineering that will bring exciting advances in medicine and the treatment of disease. This amazing technology is already being used by scientists who are growing ovarian tumor samples so they can conduct studies outside the body and without harm to the patient.

The absence of gravity on the space station also will allow new insights into human health and disease prevention and treatment, including heart, lung, and kidney function, cardiovascular disease, osteoporosis, and immune system functions.

In recent years, NASA has obtained scientific data from space experiments that is five times more accurate than that on Earth. None of these benefits will be available unless we have a space station on which we can perform adequate research.

The space station is the greatest peaceful scientific international endeavor undertaken. This is our future and space is one of the last unexplored regions of our universe. It holds untold knowledge and could catapult us into even greater understanding of our world and yet undiscovered worlds. Yes, the station will provide us with fantastic science—but that is only one of the known positives of this great endeavor. The unknowns are limitless and could provide us with unimaginable discoveries. We are on the very cusp of launching the first elements in November of this year, with the second element to follow in December.

Since its inception in 1958, NASA has accomplished many great scientific and technological feats. NASA's technology has been adapted for many nonaerospace uses by the private sector. We can thank NASA for so many things—from car phone technology, satellite imagery, the CAT scan, to Velcro and freeze dried ice cream. At its fortieth anniversary, NASA remains a leading force in scientific research and is one of the best examples of the American spirit and our can-do attitude.

We are proud of what NASA has achieved, and on this 40th anniversary we do have a number of accomplishments to celebrate.

I thank the Chair and yield the floor.

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

THE 40TH ANNIVERSARY OF NASA

Mr. SESSIONS. Mr. President, I thank the Senator from Texas. We both share a keen interest in space. I will also be speaking on the topic of the 40th anniversary of NASA, which is today.

Mr. President, next month, from launch pad 39B at Cape Canaveral, the Space Shuttle's main engines will fire up, the solid rocket motors will ignite, and the crew of seven will be sent off into orbit around our home planet. One of those seven will be the distinguished Senator from Ohio. More than 36 years after his first flight, JOHN GLENN will again orbit the earth in a United States spacecraft.

I have here a picture of Senator GLENN taken 36 years ago with Dr. Wernher von Braun in Huntsville, Alabama, my home State. They are shown here discussing a proposed lunar landing craft. What an imagination, what a vision, what an exploring capacity they had. Shortly after that first orbital flight, they were already planning a trip to the moon—a vision that many thought could never be achieved and was achieved so successfully.

Senator GLENN's remarkable story is a subplot to the remarkable story of the National Aeronautics and Space Administration. On October 1, 1958, just six months before the distinguished Senator from Ohio was named as one of the original Mercury astronauts, NASA was born. Today, NASA marks its 40th anniversary of service to this Nation.

It is hard to believe that more than 40 years have passed since the Soviet launch of Sputnik. Spurred by concern over the Soviet advantage in space, the Eisenhower administration proposed the creation of a civil space agency to lead our Nation in the exploration of space. Forty years later, the Soviet Union no longer exists. But NASA stands on the threshold of a new millennium, the undisputed world leader in space exploration.

The agency's achievements and discoveries during that 40-year period have changed our world in many ways. Those who are familiar with the space program talk frequently of the many ''spinoffs'' from the program. There are, in fact, many products and services that are obviously and directly attributable to the space program.

For instance, many Americans do not leave home in the morning before checking the weather forecast. Being from Mobile and just sitting through a hurricane, this was particularly true for me this past weekend. Of course, weather satellites orbiting the earth have revolutionized weather forecasting. Many of us check the forecast by

turning on the television networks that distribute their signals by satellite. Indeed, I saw a writer interviewed recently. He said he realized just how significant this global communications system was when he was on a dirt road in Africa and he picked up a cell phone and, through a satellite, called his home in Ohio.

There are a great number of beneficial byproducts of NASA's work that are less obvious. Indeed, many credit the micro-miniaturization of electronics, which was driven by the needs of the space program, with ushering in the whole technological revolution and the information age that we are now experiencing.

As important as the tangible benefits from the space program have been, I believe the intangible benefits have been even more significant. What value can we assign to our victory in the space race—to our come-from-behind win against a totalitarian rival? What would have been the military and foreign policy implications of Soviet domination in outer space?

But Cold War implications aside, NASA's success has been an important factor in elevating our national spirit. For America, exploration is imperative. We will never be content to sit back as observers while others take the risks and are rewarded with new discoveries. Exploration can take many forms, but, probably more than anyone else, NASA exemplifies our spirit of exploration.

There was a time, earlier in our Nation's history, when Alabama and everything west of the Appalachians comprised the frontier. Today, space is the frontier. Since its inception 40 years ago, NASA has been charting the path in this new and exciting territory.

On October 7, 1958, just one week after it came into existence, NASA formally approved Project Mercury to send a man into orbit around the earth, investigate his capabilities and reactions to space and return him safely to earth. Project Mercury produced genuine American heroes, like the late Alan Shepard and then-Lieutenant Colonel JOHN GLENN.

On May 25, 1961—shortly after Alan Shepard's suborbital flight, and months before Senator GLENN became the first American astronaut to orbit the earth in February of 1962—President Kennedy set a high mark for the young space program. Speaking to a joint session of Congress, he established a national goal of landing a man on the moon and bringing him safely back to earth, and this was to be accomplished before the decade was out.

As we all know, the nation and NASA were up to the challenge. On July 20, 1969, an Apollo lunar landing craft carrying Neil Armstrong and Buzz Aldrin touched down on the surface of the moon. That remarkable achievement stands as one of the proudest moments in American history, and one of the greatest achievements in the history of mankind.

Since Apollo, NASA's accomplishments have been legion, in aeronautics as well as space, in unmanned exploration as well as human space flight. While it is hard to match the thrill of the first moon landing, the expansion of scientific knowledge flowing from NASA's later programs has truly been historic.

As we look to the future, NASA cannot, and would not, rest on its laurels. Within the first few months after its 40th Anniversary, NASA will launch the STS–95 science mission, with Senator GLENN on board, will launch the first U.S. element of the International Space Station, and will launch its next great observatory, the Advanced X-Ray Astrophysics Facility.

Following close on the heels of those missions will be the first flights of the X–34 technology demonstrator and the X–33 reusable launch vehicle prototype, as well as the launch of the U.S. Laboratory Module for the Space Station.

All of this is scheduled to occur before this millennium closes. With proper support from the Administration, the Congress and the public, NASA will continue to lead the world in exploration well into the next millennium.

I am proud of the role that my home state has played and continues to play in the space program. Even before NASA was formed, Dr. Wernher von Braun and his team of rocket scientists with the Army Ballistic Missile Agency in Huntsville were developing new rocket systems. A modified Jupiter-C rocket, developed by von Braun's team, answered Sputnik by placing the Explorer I Satellite into orbit on January 31, 1958.

This is a remarkable picture taken at the ABMA Fabrication Lab in Huntsville in 1959. Shown here are the original seven Mecury astronauts, who are touring the facility with Dr. von Braun. From left to right we see: Gus Grissom, Wally Schirra, Alan Shepard, JOHN GLENN, Scott Carpenter, Gordon Cooper, Deke Slayton, and Dr. von Braun.

In 1960, 4000 employees of the ABMA in Huntsville were transferred to NASA's control, and Dr. von Braun became the first Director of the George C. Marshall Space Flight Center. Von Braun and the Marshall Center would be responsible for the Redstone rocket, which lifted Alan Shepard into outer space, and for the giant Saturn V rocket, which propelled Apollo 11 to the moon.

Marshall Space Flight Center is still NASA's center of excellence for space propulsion, as well as NASA's lead center for Space Transportation Systems Development and for Microgravity Research. Companies and universities in Alabama also continue to play important roles in the space program.

So I have reason to be proud of Alabama's contributions. But universities, corporations, and NASA installations throughout the country play important roles in the space program and in space-based research. Our whole nation can be proud of our accomplishments in space, and in NASA's important aeronautics research.

We have succeeded because we are willing to take risks. And we have been unwilling to quit when we encounter difficulties and setbacks.

The tragic Apollo fire cost the lives of three brave astronauts. But we persevered, and the Apollo program made giant leaps for mankind.

During launch in 1973, the Skylab space station sustained damage that threatened to render it useless before it ever was put into service. Creative engineering salvaged that very important program.

The *Challenger* explosion in 1986 was a terribly painful event. We all mourned with the families of those brave explorers. But, following that tragedy, NASA was able to regroup, and has since safely flown 65 Space Shuttle missions, with a tremendous harvest of scientific results.

Perhaps it is this knack for overcoming adversity that makes NASA so special. Space is a harsh environment, and setbacks are inevitable. The risks are real. But NASA has done an extraordinary job of coping with the difficult situations that they have confronted. Many times the people of NASA have turned potential failures into remarkable successes.

Now, as we stand on the threshold of a new century—indeed, a new millennium—our whole nation can be proud as we look back on NASA's accomplishments in its first 40 years. And we can be optimistic as we look ahead.

Optimistic that our spirit of exploration is alive and well. Optimistic that we will continue to see tangible and intangible fruit from our investment in space. Optimistic that our children's lives will be richer because we dare to reach for the stars.

Mr. President, I congratulate NASA on its 40th anniversary. I look forward to continuing to work hard to support this program in the future. Unfortunately, the administration's budget for the last 4 years has shown a net reduction in funding for NASA. I have spoken on that before. The budget we approved this year represents a small reduction again this year over last year's budget for NASA. I think it is time that we recognize our character as a nation, that we not cut NASA, that we recognize that it symbolizes who we are as a people. We should recognize that NASA symbolizes our best and highest instincts as a nation, and that we ought to be space explorers as Lewis and Clark explored the frontier, and as we have explored the seas and so many things.

Mr. President, I want to again say how much I have been honored to serve with astronaut GLENN, Colonel GLENN, and Senator GLENN. He has been a high representative of this Senate. We cheer him on again as he goes forward to his next flight 36 years after the first.

STROM THURMOND NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I yield myself such time as remains on our side in the stead of the Democratic leader, as manager on this issue.

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

Mr. CONRAD. I thank the Chair.

Mr. President, I rise in support of the defense authorization conference report that is before us today.

In particular, I would like to thank the conferees for their support of an amendment I offered in the Senate dealing with Russia's tactical nuclear weapons. I was pleased to have the cosponsorship of Senators KEMPTHORNE, KENNEDY, BINGAMAN, and LEVIN when this amendment was passed by the Senate in June. I would like to thank them again for their support.

Mr. President, my amendment focuses on an issue that I believe has received too little attention. That is the question of the tactical nuclear weapons in the Russian arsenal. Those weapons, that are thousands in number, are among the most vulnerable to acquisition by terrorists and dictators.

The conferees' approval of my amendment is timely. Recent stories in the Washington Post have indicated that the international terrorist, Bin Laden, may have made attempts to purchase Russian nuclear weapons and that Iraq's nuclear program is much further along than previously expected. Unfortunately, the chances are increasing that the Bin Ladens and Saddam Husseins of the world may acquire nuclear weapons. That danger increases as Russia's economic meltdown continues. As Russian soldiers go unpaid and funding for security systems comes under pressure, Russia's massive tactical nuclear arsenal becomes the world's best source of warheads for terrorists and others who wish this world ill.

Mr. President, the threat of tactical nuclear warheads being sold and the threat of them being stolen is growing.

This chart refers to a CIA comment on the ''loose nukes'' question. As they responded to an inquiry from my office:

> We cannot rule out the possibility that a small number of nuclear warheads are missing. The Russian nuclear accounting system is archaic and inefficient. Years of crisis have left once-elite troops impoverished. . . . We take claims of lost warheads seriously.

On the question of tactical nuclear warheads, I offer these observations—the first from the Congressional Research Service:

> Questions exist about the locks employed on [Russia's tactical nuclear weapons] and possible breaches in security at storage facilities. Many now believe that the risk of acquisition or use by rebels, criminals, or rogue military leaders may be greater for tactical nuclear weapons than it is for strategic nuclear weapons.

From the U.S. Arms Control and Disarmament Agency, I quote:

> Because of their larger numbers, smaller size, and in some cases simple design and relative ease of employment, non-strategic nuclear weapons pose more difficult command, control, and safety concerns than do strategic nuclear weapons.

Mr. President, the point is that there is a threat. There is a threat of these thousands of tactical nuclear weapons that the Russians still have in their arsenal being diverted to the uses of those who are a danger to all of us. Terrorist use of a tactical nuclear warhead could be devastating.

This is a comparison to what happened out in Oklahoma City. That fertilizer bomb was .0002 of a kiloton. The ''Fat Man'' atomic device dropped in 1945 was 14 kilotons. The smaller tactical weapons of today are 10 kilotons. The larger tactical nuclear weapons of today have a yield of as much as 300 kilotons.

I think we need to understand the destructive potential of these weapons in the Russian arsenal.

Russia's tactical nuclear arsenal is still massive. We can go back to 1991. The United States had roughly 15,000 tactical nuclear weapons at that time; the Soviet Union had 20,000. If we look today, the United States is down to 1,600 tactical nuclear weapons; the Russians still have from 7,000 to 12,000.

My colleagues know that there are treaties that deal with strategic systems and conventional systems. There is nothing on tactical nuclear systems. That is why I believe the amendment that is in this bill is important.

I believe it is time for Congress to:

No. 1, go on record as concerned about the significant ''loose nuke'' dangers associated with Russia's tactical nuclear stockpile and its growing strategic relevance;

No. 2, call for the Russians to make good on the 1991 and 1992 Gorbachev and Yeltsin promises to deeply reduce tactical nuclear weapons, just as the United States has followed through in good faith on President Bush's promises in September of 1991;

And, No. 3, get more information from the Pentagon and the intelligence community about this threat.

This chart perhaps sums it up best. The bottom line on Russian tactical nuclear arms is, to quote General Eugene Habiger, former Commander in Chief of the U.S. Strategic Command, on March 31, 1998:

> It is time for us to get very serious about tactical nuclear weapons.

Indeed, it is time for us to get very serious. This amendment is a beginning.

I thank the Armed Services Committee for their support for this amendment.

I would like to take a moment more to thank those members of the Armed Services Committee who will no longer be in the positions they currently occupy. We are going to miss Senator DIRK KEMPTHORNE of Idaho, a wonderful man, somebody who has become a good friend. I am going to miss him very much. And Senator DAN COATS will also be retiring, and is also a terrific person. DAN COATS has been in many ways the conscience of the Senate, somebody we can look to time and time again for moral leadership.

Of course, I also want to recognize the chairman. This is the last bill that we will have before us with Senator THURMOND as chairman of the committee.

Senator THURMOND, we want to recognize the enormous contribution that you have made to this body and the enormous assistance that you have provided to all of us.

I also want to recognize Senator GLENN who will be retiring. He will be going into space. Senator GLENN has been rock solid on these issues. We are certainly going to miss him in this Chamber.

Senator THURMOND is not leaving us, thank goodness. I have a feeling Senator THURMOND will probably be here long after I have left and perhaps long after most other Members have left. He has been able to stay in this Chamber for longer than anyone else in our history. Even though he is stepping down as chairman of the Armed Services Committee, I have no doubt that Senator THURMOND will continue to lead us in many other ways.

I want to recognize those who will be either changing their roles or leaving the Senate as we consider this bill for the final time this year.

I thank the Chair.

I yield the floor.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I wish to thank the able Senator from North Dakota for his kind remarks and commend him for the great service that he has rendered to the Senate during his tenure.

Mr. President, I ask for the yeas and nays on this defense bill.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. THURMOND. Mr. President, I yield any time I have remaining.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the conference report. 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) and the Senator from Illinois (Ms. MOSELEY-BRAUN) are necessarily absent.

The result was announced—yeas 96, nays 2, as follows:

[Rollcall Vote No. 293 Leg.]

YEAS—96

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

NAYS—2

Feingold	Wellstone

NOT VOTING—2

Glenn	Moseley-Braun

The conference report was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

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

The motion to lay on the table was agreed to.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The majority leader.

UNANIMOUS CONSENT REQUEST—H.R. 10

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 10, the financial services modernization bill.

Mr. GRAMM. Reserving the right to object.

Mr. SHELBY. Reserving the right to object.

Mr. GRAMM. Will the Senator yield? Reserving the right to object.

The PRESIDING OFFICER. Will the Senator withhold?

Mr. LOTT. I withhold.

INTERNET TAX FREEDOM ACT—MOTION TO PROCEED

The PRESIDING OFFICER. The pending question is the motion to proceed to S. 442.

Mr. GRAMM. Will the Senator yield? Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Is the unanimous consent request of the majority leader to proceed to H.R. 10?

The PRESIDING OFFICER. That request is not pending at this moment. The question is the motion to proceed. Is there further debate on that?

Mr. GRAMM. Reserving the right to object, the motion before the Senate is a motion to proceed to the Internet tax bill; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. GRAMM. I have no objection to proceeding to it, but I do object to proceeding to H.R. 10.

The PRESIDING OFFICER. Is there objection to agreeing to the motion to proceed to S. 442? Without objection, it is so ordered.

The motion was agreed to.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. LOTT. 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.

UNANIMOUS CONSENT REQUEST—H.R. 10

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 10, the financial services modernization bill.

The PRESIDING OFFICER. Is there objection?

Mr. GRAMM. I object.

Mr. SHELBY. I object.

FINANCIAL SERVICES ACT OF 1998—MOTION TO PROCEED

CLOTURE MOTION

Mr. LOTT. In light of the objection, I now move to proceed to H.R. 10, and send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 588, H.R. 10, the financial services bill.

Trent Lott, Alfonse D'Amato, Wayne Allard, Y. Tim Hutchinson, Dan Coats, Rick Santorum, Robert F. Bennett, Jon Kyl, Gordon Smith, Craig Thomas, Pat Roberts, John Warner, John McCain, Frank H. Murkowski, Larry E. Craig, and William V. Roth, Jr.

Mr. LOTT. Mr. President, for the information of all Senators, this cloture vote, then, will occur on Monday. All Members will be notified as to the exact time of the vote when it becomes available.

I want to say at this point, I certainly understand the concerns of the Senator from Texas and the Senator from Alabama. I have talked to them several times, and I know that they still have concerns about what is in this bill. I am assuming they will be working with the chairman of the committee and other Senators that have concerns to work something out. I believe we are at a historic point with regard to financial services. That can be completed if everybody will work together in this week that we have left.

I had delayed filing cloture earlier, including Monday, Tuesday and Wednesday, because there were objections on both sides of the aisle about various and sundry things, but also I wanted to give everybody time to work through their problems. I really felt like that until we pushed this forward and had the cloture on a motion to proceed, the remaining problems were not going to be worked out.

I, again, call upon Senators on both sides of the aisle and the chairman and the ranking member to work with the Senators that have concerns from both parties so that we can get this completed.

This is the first time we will have had major financial services reform and modernization since 1932. We need to get it done. So I hope that can be accomplished. And I urge the Senators to keep working and keep me posted on the progress that is being made.

Mr. President, I ask unanimous consent that the mandatory quorum under rule XXII be waived.

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

Mr. LOTT. I now withdraw the motion to proceed.

The PRESIDING OFFICER. The motion is withdrawn.

KING COVE HEALTH AND SAFETY ACT OF 1997

Mr. LOTT. Under the previous provisions of the consent agreement of June 25, 1998, I ask the Chair to lay before the Senate S. 1092, the Cold Bay and King Cove bill.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1092) to provide for a transfer of land interests in order to facilitate surface transportation between the cities of Cold Bay, Alaska, and King Cove, Alaska, and for other purposes.

The Senate proceeded to consider the bill.

Mr. LOTT. For the information of all Senators, this bill has a time agreement of no more than 6 hours. I have had indications that it could be maybe done in 3 hours or less. I understand there is only one amendment in order that may require a vote along with the passage. Therefore, additional votes are expected during today.

We will try to work around scheduling conflicts. But I would expect a vote or two on this, and then for us to go to the Internet tax bill, hopefully, with

votes on that. And we will also be voting, I presume, on the Internet tax bill tomorrow. And we cannot say right now, but I expect we will go beyond the normal hour of 9:30 or 10. We will work toward 12. And if we have to go beyond that, I would hope we would get cooperation because there is a meeting going on right now on the Internet tax matter with interested Senators from both sides of the aisle. We could complete that bill. And we should be prepared to stay as late as it takes to get that done.

I urge the Senators that are involved in this, Senator MURKOWSKI, Senator FEINSTEIN, and others, if you can do it in less than 3 hours, there would be a lot of appreciation. If you can do it in an hour, hour and a half, we would appreciate it because we have a lot of work to do.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

PRIVILEGE OF THE FLOOR

Mr. MURKOWSKI. I ask unanimous consent that privileges of the floor be granted to the following members of my staff: Mr. Brian Malnak, David Dye, Joe Meuse, Jim Beirne and Mark Rey during the pending debate on S. 1092.

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

Mr. MURKOWSKI. Mr. President, my understanding is that the Senator from California would like to take a few minutes to discuss a matter of great importance to her. And since we have not addressed the time, I have no objection with the assumption that I be recognized upon the conclusion of her remarks.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from California is recognized.

Mrs. FEINSTEIN. I thank the Chair and thank the distinguished Senator from Alaska for his courtesy.

THE 40TH ANNIVERSARY OF NASA

Mrs. FEINSTEIN. Mr. President, the 40th anniversary of NASA is historic. It does have an impact on my State of California. I want to take a moment and wish NASA a happy birthday. I want to salute the fact that they have captured the world's imagination with missions such as the Mars Pathfinder and the Hubbell Space Telescope. Experiments and technological feats performed on Space Shuttle missions are paving the way for a permanent presence in space.

Mr. President, as I said, I join my colleagues in recognizing the many historic achievements that the National Aeronautics and Space Administration has made in its forty years of service.

This is a particularly exciting period for our space program, not simply because NASA is celebrating its 40th Anniversary but more importantly because of the major advances being made in the exploration of our solar system.

As I said, in recent years, NASA has captured the world's imagination with missions such as the Mars Pathfinder and the Hubble Space Telescope. Experiments and technological feats performed on Space Shuttle missions are paving the way for a permanent presence in space.

One of the most telling signs of our changing world is that, NASA, whose original mission was national defense in the cold war with the Soviet Union, is now working with Russia to develop the first International Space Station.

I am very proud to say that some of NASA's most valuable research has been accomplished in my home State of California. In 1958, the Jet Propulsion Lab in Pasadena built and controlled the first United States satellite sent into orbit. In the four decades that have followed, JPL has contributed to the exploration of most of the known planets in our solar system.

The full list of JPL's role in planetary exploration is far too long to address here. But I want to mention one recent accomplishment. In December of 1996, NASA launched the Mars Pathfinder, another JPL built and controlled spacecraft.

The Pathfinder successfully placed a rover on the surface of the red planet that beamed-back pictures that were viewed around the world with awe. I actually had the unique pleasure to visit JPL last year and was actually able to send commands up to the rover and then watch and see the rover move based on the command. It was rather amazing because the computer I was on actually went to a station in the desert which then beamed it directly to Mars, and so a few minutes after I pressed the command into the computer, I actually watched the rover move on the planet Mars. It was an amazing experience.

California is also home to one of NASA's premier research laboratories, the Ames Aeronautical Laboratory. NASA Ames provides research in the fields of supercomputing, software development, and automated reasoning. As the lead center for Aviation Operations Systems, Ames manages the research effort in air traffic control and has the major responsibility for wind tunnel testing and simulation.

As California has been a major partner in NASA's success in the past, we will continue to lead as we move into the 21st century. NASA has developed a strategic plan that will build on its accomplishments with a renewed focus on scientific research and the application of a new cutting-edge technology. I am confident that California will continue to provide the backbone for this program.

I want to take a few moments to talk about what I believe is one of the most remarkable feats in the history of a space program filled with remarkable feats. Later this month, the Space Shuttle *Discovery* will be embarking on Mission STS–95. As we know, our colleague, Senator JOHN GLENN will be making his second trip into space on this flight. While his presence will certainly be missed here in the Senate, I know my colleagues share my pride in his achievements and wish him the best on his historic return to space.

On February 20, 1962, JOHN GLENN piloted the ''*Friendship 7*'' spacecraft on the U.S.'s first manned obtial mission. During the almost 5 hour flight, Senator GLENN worked on some of the first technical and medical experiments ever performed while orbiting the Earth.

Now, more than 35 years after that first flight, Senator GLENN will soon be returning to space. It is interesting to note some of the advancements that have been made since that first ground breaking flight.

The shuttle's flight will last 9 days instead of 5 hours, it will orbit the planet at 345 miles an hour rather than 16, and it will circle the Earth 144 times rather than 3. The comparison between these two flights capsulizes the advancements that have been made in the space program and it is remarkable that one man will experience both.

Senator GLENN has done more to promote our space program than perhaps any other person. Millions of people held their collective breath as he led the country into orbit of the Earth in 1962 and the world will again watch as he leads NASA into the next century.

Mr. President, it is with great pride and respect that I pay tribute to the many achievements NASA has made in its first 40 years. I know that I stand with the rest of the nation in anticipation of what will be accomplished in the next 40.

KING COVE HEALTH AND SAFETY ACT OF 1997

The Senate continued with consideration of the bill.

AMENDMENT NO. 3676

(Purpose: Amendment in the nature of a substitute)

Mr. MURKOWSKI. Mr. President, I send an amendment in the nature of a substitute 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 Alaska [Mr. MURKOWSKI] proposes an amendment numbered 3676.

Mr. MURKOWSKI. 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:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''King Cove Health and Safety Act of 1998''.

SEC. 2. FINDINGS.

The Congress finds that—

(a) King Cove, Alaska is a community in the westernmost region of the Alaska Peninsula with a population of roughly 800 full-

time residents and an additional 400 to 600 workers who are transported in and out of the community a number of times a year to work in the local fish processing plant and on fishing vessels;

(b) the majority of the full-time residents are indigenous Native peoples of Aleut ancestry that have resided in the region for over 5,000 years;

(c) the only mode of access to or from King Cove is via small aircraft or fishing boat, and the weather patterns are so severe and unpredictable that King Cove is one of the worst places in all of the United States to access by either of these modes of transportation;

(d) the State of Alaska has initiated the King Cove to Cold Bay Transportation Improvement Assessment to confirm the need for transportation improvements for King Cove and to identify alternative methods of improving transportation access with comprehensive environmental and economic review of each alternative;

(e) the State of Alaska has identified a road between King Cove and Cold Bay as one of the alternatives to be evaluated in the transportation planning process but for a road to be a viable option for the State of Alaska, the Congress must grant a legislative easement within the Izembek National Wildlife Refuge (''Refuge'') across approximately seven miles of wilderness land owned by the Federal Government;

(f) there are fourteen miles of roads within the wilderness boundary of the Refuge which are currently traveled by vehicles;

(g) any road constructed in accordance with such easement would be an unpaved, one-lane road sufficient in width to satisfy State law; and

(h) the combined communities of King Cove and Cold Bay have approximately 250 vehicles.

SEC. 3. PURPOSE.

The purpose of this Act is to establish a surface transportation easement across Federal lands within the Refuge and to transfer 664 acres of high value habitat lands adjacent to the Refuge in fee simple from the King Cove Corporation to the Federal Government as new wilderness lands within the Refuge in exchange for redesignating a narrow corridor of land within the Refuge as nonwilderness lands.

SEC. 4. LAND EXCHANGE.

If the King Cove Corporation offers to transfer to the United States all right, title, and interest of the Corporation in and to all land owned by the Corporation in Sections 2, 3, 4, 5, 6, and 7 of T 57 S, R 88 W, Seward Meridian, Alaska; and any improvements thereon, the Secretary of the Interior (''Secretary'') shall, not later than 30 days after such offer, grant the Aleutians East Borough a perpetual right-of-way of 60 feet in width through the lands described in sections 6 and 7 of this Act for the construction, operation and maintenance of certain utility-related fixtures and of a public road between the city of Cold Bay, Alaska, and the city of King Cove, Alaska and accept the transfer of the offered lands. Upon transfer to the United States, such lands shall be managed in accordance with Section 1302(i) of the Alaska National Interest Lands Conservation Act, shall be included within the Refuge, and shall be managed as wilderness.

SEC. 5. RIGHT-OF-WAY.

Unless otherwise agreed to be the Secretary and the Aleutians East Borough, the right-of-way granted under section 4 shall—

(1) include sufficient lands for logistical staging areas and construction material sites used for the construction and maintenance of an unpaved, one-lane public road sufficient in width to meet the minimum requirements necessary to satisfy State law;

(2) meet all requirements for a public highway right-of-way under the laws of the State of Alaska; and

(3) include the right for the Aleutians East Borough, or its assignees to construct, operate, and maintain electrical, telephone, or other utility facilities and structures within the right-of-way.

SEC. 6. CONFORMING CHANGE.

Upon the offer of Corporation lands under section 4, the boundaries of the wilderness area within the Refuge are modified to exclude from wilderness designation a 100 foot wide corridor to acommodate the right-of-way within the following land sections—

(1) Sections 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 35, and 36 of T 56 S, R 87 W, Seward Meridian, Alaska.

(2) Sections 23, 24, 25, 26, 27, 34, 35, and 36 of T 56 S, R 88 W, Seward Meridian, Alaska.

(3) Sections 1, 2, 11, and 12 of T 57 S, R 89 W, Seward Meridian, Alaska.

SEC. 7. RIGHT-OF-WAY LOCATION.

Unless otherwise agreed to by the Secretary and the Aleutians East Borough, the right-of-way granted under section 4 shall be located within—

(a) sections 2, 3, 10, and 11 of T 59 S, R 86 W, Seward Meridian, Alaska;

(b) sections 27, 28, 29, 30, 31, 32, 33, 34, and 35 of T 59 S, R 86 W, Seward Meridian, Alaska;

(c) sections 3, 4, 9, 10, 13, 14, 15, 16, 23, 24, 25, 26, and 36 of T 58 S, R 87 W, Seward Meridian, Alaska;

(d) sections 5, 6,7, 8, 9, 16, 17, 20, 21, 27, 28, 29, 32, 33, and 34 of T 57 S, R 87 W, Seward Meridian, Alaska;

(e) sections 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 35, and 36 of T 56 S, R 87 W, Seward Meridian, Alaska;

(f) sections 23, 24, 25, 26, 27, 34, 35, and 36 of T 56 S, R 88 W, Seward Meridian, Alaska;

(g) section 6 of T 37 S, R 88 W, Seward Meridian, Alaska; and

(h) sections 1, 2, 11, and 12 of T 57 S, R 89 W, Seward Meridian, Alaska.

SEC. 8. TECHNICAL AMENDMENTS.

The following provisions of law shall not be applicable to any right-of-way granted under section 4 of this Act or to any road constructed on such right-of-way—

(1) section 22(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1621(g)).

(2) title XI of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3161 et seq.), except as specified in this section; and

(3) section 303(c) of title 49, United States Code.

SEC. 9. The Secretary and the Aleutians East Borough shall jointly prepare a plan setting forth—

(1) the times of the year a road may reasonably be constructed when there are not high concentrations of migratory birds in Kinzarof Lagoon; and

(2) limitations on non-emergency road traffic during periods of the year when there are high concentrations of migratory birds in Kinzarof Lagoon.

SEC. 10. If within 24 months of the date the King Cove Corporation offers to transfer to the United States all right, title, and interest of the Corporation lands set forth in Section 4 of this Act, the Secretary and the Aleutians East Borough fail to mutually agree on the following—

(1) a final land exchange and a grant of a right-of-way pursuant to Section 4; and

(2) the right-of-way specifications, and terms and conditions of use set forth in sections 5, 6, 7 and 8 of this Act.

then the Aleutians East Borough shall have the right to select a 60 foot right-of-way for the construction, operation, and maintenance of certain utility-related fixtures and of a public road from lands described in Section 7 of this section, and to identify logistical staging areas and construction material sites within the right-of-way. If an agreements is not reached within 6 months after the Aleutians East Borough notifies the Secretary of its selection, then the right-of-way is hereby granted to the Borough.

Mr. MURKOWSKI. Mr. President, I will proceed under the theory that one picture is worth 1,000 words, although I am not suggesting that you are not going to get 1,000 words, as well. In any event, in order to set the stage for the debate on King Cove, I think it necessary to educate and familiarize the Members of this body as to what this issue is, where it is, and why it is so important to the residents of the small community of King Cove, on the Aleutian Islands, population 700, who have no availability of surface transportation for medical care. As a consequence of the lack of surface transportation for this community, 11 of the residents of that small community have perished in medevac flights out of the area over the last decade.

I think I should also identify Senate bill 1092 that is before this body, specifically, the substitute that I have offered, which exchanges surface estate.

The substitute that I offer exchanges the surface estate of some of the higher value wetlands privately owned by one of the Native village corporations in King Cove within the refuge in exchange for a simple grant of right-of-way across Federal lands that would allow the residents of King Cove reliable access to the Cold Bay Airport; hence, medical care when emergencies exist.

Further, we are not asking for an appropriation. I think it is fair to note that there are no funds requested. This is simply an authorization for land exchange, something that is ordinarily done within the Committee of Energy and Natural Resources, which I chair, on a daily basis.

The real concern here is the people of King Cove. Now, many of the Members of this body have had an opportunity to meet with the Aleut residents of King Cove as they visited Washington, DC, as they visited Members' offices and made a unique appeal, an appeal based on the rigors of living in a wilderness area with a harsh environment, and the experiences they have had in not being able to avail themselves of the transportation system that ensures that they can safely get to hospitals for medical assistance when there is an emergency.

As I said, 11 residents of my State have already died flying into or out of the area. Many of them were seeking to get badly needed medical attention in an emergency. Still others died while waiting on the ground for weather to clear enough to attempt to make these potential life-saving flights.

Let me show Members what part of Alaska we are talking about. Alaska is a pretty big chunk of real estate. We have 33,000 miles of coastline. Of course, Juneau, our capital, sits here. Anchorage, our largest city, is at the

head of Cook Inlet, roughly in this area. Fairbanks, where my home is, is in the interior. Point Barrow is adjacent to the Arctic Ocean. Prudhoe Bay is on the Beaufort Sea. But we have another area on the Aleutian Islands and this area extends almost to Japan. This area includes the community of King Cove which is on the Pacific Ocean side. Across a small base is the area where we have a large airport that was left over from World War II. To identify the specific area on a scale map, we can see Cold Bay here, and then King Cove here.

We have unique weather patterns spawned as a consequence of the Japanese current moving along the Aleutian Islands and clashing with the cold, interior Bering Sea, creating some of the worst weather in the world. No question it has been documented as such.

We have the village of King Cove, 700 people year-round, and a small industry associated with fish packing, freezing and processing. Then we have a large complex built during World War II, consisting of crosswind runways. I will show pictures of runways in Cold Bay and King Cove.

Let me show the first picture which shows a gravel strip, about 3,700 feet, which is the access for the residents of King Cove. There is a road that goes along the side of the mountain. That is the road that comes in from the village. The interesting thing about this and the location is this is the best they could do for an airfield because of the topography and the realization that the winds are extraordinary in this area. There are numerous cases of pilots landing in small single or twin-engines with the wind sock at one end blowing one way and the wind sock at the other end blowing the other way. That is the harsh reality because the wind from the Bering Sea comes one way, the winds from the Pacific Ocean come the other. They simply clash over this area and create this extraordinary complexity of winds. It is not necessarily fog, it is not necessarily heavy snowfall, it is tremendous turbulence in wind.

Here is another airfield located at Cold Bay. This was part of the effort during the Second World War in preparation for the invasion of Japan, to build this large facility, over 11,000 feet, the main runway. The population here is about 130 people. Most are Government employees with the FAA, operating this runway. This is also a backup for an emergency, should any of the space shuttles have to land in this particular area based on their orbits.

The point is, there is daily jet service into Anchorage from here. I think there was only 1 day last year where the winds were such that they couldn't bring in aircraft.

This is how you go from King Cove to Cold Bay to start your visit to Anchorage to visit with friends or to get out, if you will, of King Cove to go virtually anywhere. You have to go over here. The only way to get there is to fly. If you are in an emergency situation, you have another set of facts. The point is this runway represents reliability in transport. You see these little roads here around Cold Bay that have been in existence since the Second World War.

It is interesting to note that there are some 32 to 47 miles of roads that are in the wilderness. Make no mistake. I have driven the roads. They are there. They are not maintained because there is little maintenance necessary for them. But they are drivable. They are drivable by the U.S. Fish and Wildlife Service and others.

Let me proceed with some more pictures because I promised to give you an opportunity for a feeling for this area relative to pictures that have been taken over an extended period of time.

Now, I want to show the land area and the proposed road so we can get an idea of what we are talking about here in relationship to the issue. The colors in solid brown are the Izembek National Wildlife Refuge. That is this area here. Then we have the wilderness areas in the checkered brown with the white in it. You can see it is extensive, but it is not conclusive in that it connects. There is the major portion here, and then over toward Cold Bay there is another area, and there has been an area that has been left aside down here. So the wilderness areas don't connect together.

The existing roads are worth evaluating a little bit, Mr. President, because they cover roads not only in the wilderness up here, which are drivable, but they go into the wildlife range where you can go and photograph and you can hunt geese. They go into the wilderness area here.

The proposal now is to have a road from King Cove to Cold Bay. That is the issue. In order to bring that road around, you have to go into that area of wilderness because you can't cross the bay because of the water depth and the costs associated with the bridge, and we are really dealing with 700 people now.

So what are the alternatives? I am prepared to discuss those later. It is important to know what the quid pro quo is here, because we think it is a win for the environment, with the recognition that the Native association is prepared to give their land, which is colored here in the basic green areas and the yellow areas, in exchange for access through this area. The quid pro quo is they are proposing that about 580 acres to be added to the wilderness in return for this 7 miles of road, which would be through this wilderness area. The only difference is that we are not putting it into wilderness. I have a difficult time trying to communicate this to some of the other Members and the public because we are proposing a land exchange.

By this 580 acres entering into the wilderness in the exchange, as a consequence of that, we would have a situation where there would be the road in a refuge but not a wilderness. By adding to the wilderness, we have done just that, taken land that the Native corporations have—and that is private land—and added that to the wilderness, and then exchanged with these specific areas designated in white—a land exchange—putting this in a refuge. So the road will not go through a wilderness; it would go through a refuge.

We have numerous occasions where there have been similar land exchanges and roads are going in refuges. This is not unique or a precedent. If you look at this area and you are concerned about waterfowl, note these two peninsulas that are privately owned by the Native corporation. They are proposing to give those and add to the wilderness. These are integral points inasmuch as they represent peninsulas and, as a consequence, the waterfowl primarily dominate through those particular areas. So this is the route of the proposed road.

We are not asking for funding. No appropriation here. This is a land exchange only to benefit the people of King Cove. And, hopefully, the question is, how many more lives do we have to lose before we get some relief?

I want to go through some of the other charts, in general, to give you an idea of why some of the alternatives suggested by others simply don't work.

This is a photo of Izembek when there is a storm. I don't know if you have ever been terrified, but I have. I have been out in boats in some of these storms. This is how you get from King Cove to Cold Bay across Izembek when there is a storm. And these are real storms. We have cases where a pregnant woman is put aboard a fishing boat in a storm like this. She gives birth to the child in the galley, and they have to open the oven and make an incubator out of tin foil and the child survives. I will show other pictures of just what kind of bodies of water we are talking about.

Mind you, the uniqueness here is that you have Bristol Bay and the Bering Sea on one side and the Pacific Ocean, and this is the area where all the storms basically are initiated on the west coast and down to California. This photo shows Izembek Bay in a storm. How would you like to subject yourself to that? You and I are accustomed to taking a road to the hospital and having access to some reasonable way, without having to subject yourself to conditions likes this.

Somebody said, ''Well, what happens on a clear day?'' That depends on what season you are in. This photo happens to depict the wintertime when the bay is frozen over. That is factual. There is your ambulance in the wintertime. How would you like to try that? That is the harsh reality that happens at certain times in the winter. You are not going to move a Hovercraft over that, and you are certainly not going to move a boat. What happens sometimes is that they do have a vessel in,

and they try to move people from a small boat up to the dock, and they move them in a cargo net. How would you like to get off your boat and into a cargo net under those conditions?

That is living in rural Alaska today. It is the harsh reality. We have some other pictures that I want to show you relative to the harsh reality of living in Alaska.

These are people who have died because there was no access out of King Cove. This is Tom Phillips, who lost a leg in a boating accident. He died in a plane crash in a medevac airplane trying to fly into Cold Bay. Christine Dushkin suffered a heart attack and died of exertion while climbing onto a Cold Bay dock from a small boat. Mary Dobson suffered from frequent seizures but could not get timely medical care during bad weather. Darien Gorsinger, a community leader, died in a plane crash while evacuating an injured Seattle fisherman. Walter Samuelson waited 3 days after a heart attack to get out of King Cove. Sarina Bear, who was born prematurely on a fishing boat, lost half of her body weight on a 3-hour fishing boat trip to Cold Bay. Earnest Mack died in Anchorage after 4 days of delay while trying to get out of King Cove. Kathy Hoff, a King Cove nurse, died in a plane crash on a Medicare mission out of King Cove. John Datolli, a bush pilot, died in a plane on a medical mission to King Cove.

This is the harsh reality and the situation as it exists. Some suggest, let's do another study, let's look for another alternative. In the meantime, my constituents are dying. I know how you would feel if they were your constituents.

Here are some headlines from some of our Anchorage newspapers, the Anchorage Daily News and the Anchorage Times: ''Six Killed in a Plane Crash,'' ''Plane on Mercy Mission Crashes; 4 Believed Dead,'' ''Four Die in Cold Bay Crash,'' ''Plane Hits Hillside at King Cove; 6 Die,'' ''Pilot Dies In Crash.''

This happens because it is really tough out there. It is so tough, as a matter of fact, that the people are saying, let us have the opportunity that other Americans enjoy, which is access by road. This is the road in this photo, Mr. President. That is what they look like. These were roads that were built during the Second World War. There is so little traffic that there is very little maintenance. This sign over here is a U.S. Fish and Wildlife sign. That goes over to Outer Point. I go out there virtually every Columbus Day, unlike my good friend, whom I have the utmost respect for, who has never been there. He has never experienced it. I have. This is what we are talking about. These are the roads that are out there.

Here is another picture. This is the topography of the area, what the country looks like. It is flat. It is barren. There are no trees. There is grass. There are lots of ponds. There are lots of birds that come through in the fall. They move on.

You can go on these roads. You can take an old 4X4 and wander around and see the country. Mind you, these roads are in the wilderness, 47 miles of them.

When you say we are driving through the heart of the Izembeck Wilderness with this road connection, you are not facing reality. These roads are already there. They are not all of the wilderness.

I will show you where these roads are, because we have a detailed map which shows the road in and out of the wilderness. It gives you an idea.

These aren't highways we are building. They are not superhighways. They are just an adequate road that you can take a 4X4 over, recognizing that when you put a little gravel around and maybe have four or five cars a week, it is not very much traffic. But depending on the circumstances, at least somebody can get out.

This is an aerial picture of the topography of the general area and what we are looking at. I think it is important that you reflect on what the area looks like today. This is a little difficult to see, but I am going to do the best I can, because it is in black and white. It is an aerial photograph. It is an official photograph. It is not something that has been doctored up or lines have been drawn in.

But this general area down here is the edge of the Cove Bay runway, and these are the roads in black that go through the general area. These are the roads that wander in through the wilderness designation. This is the line right here, the boundary. The wilderness is on this side. All of these roads are in the wilderness. They are already there.

What we are proposing is simply an extension of this road of 7 miles to go in with a land exchange—taking the area out of the wilderness, putting it in the refuge, and putting a road extension in. We are not asking for any money, we are simply asking for an exchange and an authorization; that is it.

Here are the existing roads that wander over here. Here is another wilderness boundary over here, a little chunk over here. There are roads to the west of that. When I go out there goose hunting, we usually wander out here, or wander up through here in the wilderness, and go out over here—any number of places that are there. To suggest that we are creating something that is not there is totally unrealistic and unfounded.

Again, I want to go through the remainder of the charts, because I think you are beginning to get a feel for what the country looks like and what we are up against. Hopefully the staff, who has not practiced this, will make sure that we show all the other charts before we get into some of the things that the Senator from Montana and the Senator from Arkansas take for granted that are unavailable in Alaska.

While they are going through some more of the visuals, let me make a couple more points.

What has happened to our Native people when wilderness boundaries and refuges have been designated is that the concerns of the people have basically been overlooked. The Aleut people have lived in King Cove for over 5,000 years. The substitute that I offer today would provide relief for access. That is really all we are talking about. We are talking about appealing to real people who have a need that others in the United States enjoy.

We are somewhat isolated in Alaska. We have four time zones down here. We have three. I think we are about 5,000 miles from Washington, DC, to Alaska. The area of King Cove is about 1,700 miles from Seattle, 632 miles west of Anchorage. In fact, it is interesting to note that it is twice as far from here to King Cove as it is from Tokyo to King Cove. That gives you some idea of the isolation.

I have indicated that the weather conditions out there are such that we have the uniqueness of wind sheer turbulence and what we call venturi wind conditions, which makes flying a real experience. When you add this to the fact that it is a mountainous area with sharp valleys, you find conditions for what we have had in a series of disasters. As I have indicated, on that 3,300-foot runway you have wind blowing at either side.

You might say, ''Well, the Senator from Alaska is exaggerating. That can't occur all the time.'' It occurs almost every day, Mr. President. It can occur for days on end. It can occur for weeks on end. Sometimes a week or 10 days will go by before they can get a flight in and out of King Cove, if one can wait. This is simply an inconvenience which Alaskans accept, however, since the main livelihood of the Aleutian people is derived from fishing in the treacherous seas of Bristol Bay.

Medical evacuations are a common occurrence. Surprisingly enough, they happen twice as much in this community as any other place in Alaska. With only the help of midlevel practitioners, help in an emergency must be sought in other locations. This is not a concept that many in this body are familiar with. We take for granted health care. It is only a few steps away. Certainly this is the case where we are right now in most of our hometowns. But out in the Aleutian Chain, it is not that simple.

Let me interrupt for a moment to comment on a few things.

This is a sign that the U.S. Fish and Wildlife puts out as an advisory. This is our Government speaking, not me. It says:

> Visitors [to the area] should bring extra food and rain gear should weather close in.

This is in the refuge advisory:

> The refuge is famous for inclement weather, usually in the form of wind, rain, and fog. Fog, drizzle, and overcast skies are often succeeded by violent storms and bitter cold snaps that slow down all activity. It is not unusual for an entire year to go by with only a few days of clear skies.

I don't know what that means to anybody. But it puts you on notice.

Let's see how residents of Arkansas and Montana access health care. I readily admit I do not know all the specifics of health care in these states, but I do know how to make up a chart. I do know how to make a point.

Here are the major hospitals in Montana and their accessibility by State and Federal highways. The green lines are the U.S. interstate highways, the red lines are the U.S. highways, and the black are the Montana State routes. Every place you see an ''H,'' you see a major hospital. Hopefully, I haven't missed any. But I am sure my friend from Montana would be happy to correct me if I have.

But the point is, the people of Montana have access to health care in an emergency.

Let's wander over to a Southern State. My friend from Arkansas and I have had conversations about this. I know how he feels about equity.

Here are the major hospitals in Arkansas accessible by Federal highway. I would be happy to show this a little closer if there is any difficulty in seeing it. These are the hospitals in the State of Arkansas on the road systems. There are 10 hospitals, I am told, in Little Rock. The point is the residents in the State of Arkansas have access by road to health care. Now, these are hospitals that have facilities to take care of emergencies.

Let's look at Alaska when we talk about cases of dire emergencies. We have Anchorage. Here is health care in Alaska. These are hospitals with critical care units. We have one in Anchorage, AK, an area one-fifth the size of the United States, and an area that has 33,000 miles of coastline—a big hunk of real estate. The Senator from Texas is not here so I won't comment that it is two-and-a-half times the size of Texas. I might lose his support.

This is our road system—a little bit on the Seward Peninsula around Nome, Teller, a road from Prudhoe Bay down through Fairbanks, down to Valdez, Anchorage, Homer, Kenai, a little bit of road in southeastern Alaska. Anchorage is our area of primary critical care. So when you have a situation in a village out here at King Cove in the Aleutian Islands, you need access to it. You need access to an airport where you can get an airplane, a jet airplane into Anchorage which is 600 miles away.

So things are not that simple in Alaska. They are tough. We have a first-rate Alaska Native hospital available to the Aleut residents of King Cove in Anchorage, but it might as well be on the dark side of the Moon if you can't get there.

As I have indicated, we have had 11 air crash fatalities flying residents out of King Cove, trying to get some of them to lifesaving medical attention.

We talk a lot about telemedicine, and I am an avid supporter of telemedicine. But the realities of telemedicine are that it depends on whether you have adequate personnel where you need it to communicate the symptoms and take action, and then if it is too bad you need more than telemedicine. If it is bad, you need access.

How are you going to cross a bay that is uncrossable by boat in the wintertime because it is frozen or the storms are so great you can't cross it because of the high winds?

Well, let's talk about helicopters. I have nothing but the highest admiration for our Coast Guard, National Guard and those courageous people who are out there providing rescues, but there is some uniqueness associated with the Cold Bay area, and that is something that the helicopters have a problem with, and that is extreme turbulence. The helicopters do very well in heavy winds, but it is the turbulence that creates problems. And it is important to note that threatening conditions in King Cove arise at unknown times. Pregnant women in King Cove often leave the village 6 weeks before they are due in order to make sure they are able to be near medical facilities in case complications arise.

A woman by the name of Carol Kenezuroff went into premature labor. She was unable to fly out of King Cove due to weather conditions. She decided to make the treacherous trip by boat. It took 2½ hours in an 80-foot crab boat. One hour into the trip Carol gave birth to a 2-pound-3-ounce girl on the galley table of that crab boat in a 10-foot sea. The baby's name was Sirena. She lived only because someone on the crab boat had presence of mind to make a makeshift incubator out of aluminum foil and put it near the oil stove.

The story isn't over yet, Mr. President, because the mother had to be offloaded twice from the boat in a sling because her IV tubes had got caught in the dock pilings of the unprotected harbor of Cold Bay. Do you know of anybody who had that kind of situation?

Well, it happened in the State of Alaska. By the time the baby made it to Anchorage, it had already lost half its body weight and barely survived the ordeal.

This is the harsh reality of life in King Cove, but it does not have to be that harsh. There is a solution to assure safe travel and a solution that is opposed by some of the special interest groups. I really question their justification because you cannot say that this is a road through the heart of the wilderness. This isn't a road through the wilderness. We are doing a land exchange. It is a road through a refuge, isn't it? It is a plus for the wilderness, isn't it, because we are adding 580 acres. This is a win-win-win, but the special interest groups on the other side can't see it that way because they have gone off, in my opinion, the deep end and simply said, no, we are not going to allow this exchange—not because it is not good for the environment by adding 580 acres to the wilderness. I can only assume for one selfish reason, they have a cause that generates money and membership. But I am not going to spend a lot of time on that.

The point is 30 miles as the crow flies from King Cove is the all-weather runway at Cold Bay, and all these people want is access to that 10,400-foot runway where a Reeve Aleutian Island Jet 727–100 comes in every day, except once last year when it could not get in because of weather conditions. And I might add, in deference, the only day they don't fly is Sunday. But medevac aircraft from Anchorage can get in there.

This road would total only about 29 miles. Now, remember, where would the road be? Whose land would it be on? Well, here it is, the green area. It is on land owned by the King Cove Native Village Corporation. Just roughly 7 to 8 miles of the road would be in the massive 300,000 acre—there it is, 300,000 acres. Only if this bill passes, it is not 300,000. It is 300,580 because we are adding to the wilderness. That is what makes this thing a win-win-win for the wilderness—only 7 miles—this portion here—would not be in wilderness, but the refuge.

Again, I want to make it clear because those who don't want to understand it refuse to acknowledge we are not putting a road in a wilderness. We are doing what we have done hundreds of times before, a land exchange—allowing a road in the refuge where we have numerous roads in this country.

Now, because the 7 or 8 miles of the proposed right-of-way are currently located in the wilderness, I think it is pretty clear that is why some of the groups have opposed it. But what they fail to tell you again—and I would emphasize, and I hate to be repetitive—this area already has 42 miles of existing road.

Of that 42 miles of existing road—and I want to bring that chart back up again, because I want to make this point—of the 42 miles of existing roads, we already have 12 or 14 that are already in the wilderness. You can drive on them. Take a 4x4—that is a 4-wheel-drive vehicle, all-terrain—and wander out in them anytime you want. Mr. President, 13.7 miles, to be exact, of road, are already in the wilderness. You can go out and drive on it, and I am going to be driving on it over Columbus Day.

What they fail to tell you is that this is a 60-foot, if that—a gravel road, not a highway. Let us show the picture again of what we are talking about. The Senator from Montana showed a highway the other day when he brought this matter up. ''This is what we are going to build. We are going to build a highway.'' Come on, let's quit kidding each other and the American public. And I might add, we are not asking a red cent from the taxpayer.

This is the kind of road it is. That is what it is. That is all it is. There is no

McDonald's on it, no supermarkets. A plain old road. We still have those in Alaska—plain old roads, nothing fancy. A grader might go over it once a year. To suggest that somehow the snow is going to stop a 4-wheel drive from going on a bad day? Let me tell you, when it is turbulent, the airplanes don't fly but the cars creep along the little old road very nicely.

You say there are going to be avalanches. Does it look like avalanche country to you? There are a few areas on the other side where there are some hills, but there is not going to be an avalanche. ''You will have snowdrifts.'' You do not have a lot of snow out there. You have blowing snow and winds, but the roads that are there now, the 47 miles of road, are open virtually all winter. You do not have a situation where you have, like Valdez, AK, where you have 25 or 30 feet of snow. That does not occur. This is a maritime climate but it is tough on wind. So to suggest a road will not work is unrealistic, because the roads that are there do work. Mr. President, 130 people in Cold Bay traverse on them, as they keep the airport open year around in Cold Bay.

I was using 580 acres, and I was wrong. This exchange adds 664 acres to the wilderness. The Native people are giving up their private land in return for access through a refuge. It is a win-win-win for the wilderness and the environmentalists, if they can just figure it out. Again, this substitute that I offer would adjust the boundary to include 664 acres of the private King Cove Native lands, and it would remove 85 acres from the wilderness in the exchange for the 7 miles of road.

One other thing here, lest we forget—the ''great white father.'' The ''great white father'' of public lands, in our State, is the Secretary of the Interior. He controls utilization. And we propose that for this section, this section specifically, if it is authorized and someday built, that the Secretary would have the ability to regulate the use of the road during migratory periods. How much more authority? If the concern is migration, OK, there is a concern. If you have concern about migration, don't allow hunting in the area. The U.S. Fish and Wildlife Service allows hunting. We obey the rules and they allow it out there.

One of the most significant areas in Alaska is Cordova. You have the flats of Cordova; you have a road that runs out to the Cordova River, right through the flats. It is a huge nesting area with many endangered species and an airport in the middle of it, and there is no problem at all. Do you ever see any geese on the golf courses around here? They even allow hunting on the golf course, they have so many geese. To suggest this is going to be detrimental to the migratory bird pattern is absolutely ridiculous. There is no justification for that at all, because the roads are already there. There is so little traffic on them. There is not likely to be a mass movement from Washington, DC, to King Cove or Cold Bay. Believe me.

This is a Native area, and the Native population have had the ability to generate a little activity with their little cannery and their little cold storage plant. But what they have not been able to do is to generate any interest in the Congress of the United States supporting a little land exchange so they can enjoy access to a road. They are prepared to take care of themselves, if they can simply have access to their airport.

Let's talk about precedent one more time, because I am sure the opponents will say, ''Oh, you are setting a precedent. You are setting a precedent.''

First of all, I thank those Members who were willing to see the people of King Cove during their visits here in Washington, DC, the Aleut people themselves, because they can express their desires and positions much better than I can.

I would like to recognize here an old friend who just snuck into the Chamber, who shall remain nameless; is that fair enough? Thanks, Bob.

Speaking of precedents, rather than Presidents—which we almost had here, but I am getting off the subject so I better get back to the business at hand—I think many of my colleagues have been wrongfully led to believe this provision which we propose would set a precedent in setting or allowing roads to be built through wilderness areas.

As chairman of the Energy and Natural Resources Committee, I can assure you, this is absolutely false. There is no precedent to be set by this provision. First, plainly and simply, this provision does not authorize construction of a road or authorize construction of a road in a wilderness. One more time: It simply adjusts the wilderness boundary, and that adds 664 acres of private land, private Native land, in exchange for withdrawing 85 acres that will be used for a road corridor and a refuge. None of the corridor will be in a refuge portion. It will be in the wilderness portion of the refuge.

I want to get to the point. Wilderness boundary adjustments are commonplace. They are done for numerous reasons. Last year I was instrumental in passing the Presidio legislation, which included, among other things, wilderness boundary adjustments. In one wilderness area we withdrew 73,000 acres of wilderness and added back 56,000 acres, for a net loss to the wilderness of 17,000 acres. That was in the Anaktuvuk Pass.

Prior to that, Congress—and I think my colleague from Montana will note—deleted 28 acres from the U.L. Bend Wilderness Area in the State of Montana to allow for access, to allow for access through a wildlife refuge wilderness area. What for? To a fishing area near Fort Peck Reservoir. In other words, to a fishing hole.

I am not complaining. I figure the folks in Montana know what is best for them and the Senators from Montana know what is best for their citizens. That is why I am kind of amused that this body has denigrated itself, if you will, to a situation where—you know, it used to be the Senators from the State knew what was good for their State and they were going to be judged by their constituents and held accountable. But we have moved away from that now because of the special interest groups, and we have Members who have never been to my State dictating the terms and conditions under which my people have to live. They resent that, and so do I, because they do not know what the people who are living there are really experiencing because they have not experienced it. The constituents in Arkansas and Montana have not experienced it, but I have. I can tell you, it is real.

We have had examples where Congress has created roads in wilderness areas. In fact, when the Izembek Refuge Wilderness Area was created in 1980, it was created with existing roads in the wilderness.

I don't raise these examples to advocate that wilderness boundaries should be subjected to change at whim. I am not doing that. What we are proposing is a net increase of nearly 600 acres of wilderness. If we have changed wilderness boundaries for such things as access to a recreation area or, in the case of Montana, to a fishing hole, then I can't understand why in the world it is not appropriate to change a wilderness boundary into a refuge to save lives. It is pretty basic, Mr. President. There is no truth to the claim that this is precedent setting.

Some people question why this right-of-way needs to be granted now when the State is currently undergoing a process to determine a preferred alternative between improved air safety, ground transportation, whatever. Why is the right-of-way needed if it is not yet known that this will be the State's preferred alternative? These are valid questions. They deserve a valid response.

First, one has to understand this issue is not new. A road connecting King Cove and Cold Bay was recommended in the preferred alternative of the 1985 Bristol Bay management plan done cooperatively with the State and Federal Government.

Second, in 1995, ground transportation between these two communities was listed as the State's third highest priority project for rural Alaska by the current Governor.

If you look at the map that shows the health care areas in the State—I want you to look at that a little bit more because it shows the road system in the State. We don't have roads in the State. We are the new kid on the block. We have been a State since 1959—39 years ago. That is what we have. Look at Arkansas and look at Montana. We are not asking for an awful lot here. In fact, it is a bit embarrassing for me to have to come and plead for the lives of the people in this village.

That is our road system, Mr. President, an area one-fifth the size of the United States, an area that, if superimposed on a map of the United States, superimposed in a comparative dimension, goes from Mexico, to Canada, to Florida, to California, with the extension of these Aleutian Islands. It is a big piece of real estate. I find it difficult to have to beg, if you will, for consideration here, but I guess that is what I am doing. For a people who have occupied this area for 5,000 years and have looked at every option, it makes sense to have a ground link. These people have lived, have survived a lot longer than you and I. They fish the waters and hunt the land. Sometimes they fly the skies, and sometimes they die.

It is interesting to note, too—I will point out on one of the maps of the Cold Bay area—that they have traversed this area through this so-called wilderness on foot trapping in the wintertime and hunting. This is nothing new, and they are still doing it. But these are the people who have the most at stake in protecting the region's resources. Think about that. These are the residents—they are subsistence people, to a degree. They know how to protect the fish, the game, the geese, the endangered species.

The problem with the bureaucracy is this thing can crawl on —do more studies. But the people want some assurance at the end of this process. Without the legislation before us, there is no end in sight, because what this legislation does is it simply authorizes a land exchange. That is all it does.

In testimony before Congress, the Fish and Wildlife Service was asked the question: If through this comprehensive study that is underway the preferred alternative is, indeed, a road link, would they support it? They simply said no. They didn't give a reason; they just said no. They didn't acknowledge there were roads already in the wilderness.

By granting the right-of-way now, a road link will remain a viable alternative. It will give the State the option. Why shouldn't the State have the option for Heaven's sake? It is our State. By granting this right-of-way now, a road to safety, what we are doing is appropriate and timely, and I guess tardy in some respects, and providing an opportunity for the people of King Cove to have access.

I promised to comment, since we are not limited to time currently, on a couple of other options because I know these are going to come up in the debate. I know that others will insist there be other ways to resolve the problems of King Cove without granting ground access. We have already talked about telemedicine. I know that the people of King Cove welcome the technology and the advancements telemedicine is going to add, but it is not the solution. Telemedicine is a diagnostic tool. We may be in a better position to diagnose a heart attack or a partial amputation, but we will be no better off to treat it without the ability to safely transport people to modern medical facilities.

Our largest hospital, Providence Hospital, in Anchorage stated it best recently when referring to telemedicine:

It will be especially helpful in providing better consultations to enhance a provider's knowledge and help her or him make a better decision about transport. However, it will never, ever eliminate the need for emergency transport to an acute care facility, and that is what the road between King Cove and Cold Bay is all about.

I ask unanimous consent that the letter from Providence Hospital be printed in the RECORD.

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

PROVIDENCE HOSPITAL,
ANCHORAGE, AK,
August 3, 1998.

The value of telemedicine in the Aleutians and its limitations.

ROBERT JUETTNER,
Aleutians East Borough, Anchorage, AK.

The Aleutian Chain is without a doubt one of the most difficult places on earth to provide quality healthcare for several reasons.

Weather is a primary factor. Transportation in emergencies can be terrifying and deadly. Many lives have been lost in the attempt, both patient and providers working on evacuation teams. Patients lose critical time awaiting transport to acute care facilities while waiting for the weather to change. And providers can't get out for respite or continuing education, both of which are critical for maintaining quality of care and quality of life. Within the next five years, trauma consults will improve in Alaska and in this region in particular, but it will never completely replace transport to acute care facilities when needed.

Distance between communities dwarfs many states in the lower 48 and telecommunications are often sketchy. A wise person once said, ''If a successful fax transmission is a blessing, then successful telemedicine transmissions could be a miracle!'' We are working on this through expanded bandwidth and improved technology.

The Aleutians represent a unique opportunity to develop telemedicine and telehealth applications that would truly enhance service in these under-served communities. It will be especially helpful in providing better consultations to enhance a provider's knowledge and help her make a better decision about transport. However, it will never eliminate the need for emergency transport to an acute care facility and that is what the road between King Cove and Cold Bay is all about.

Providence Health System in Alaska currently provides teleradiology services to Dutch Harbor. Plans include education, telehealth services such as conferencing through email, alliance support and peer-to-peer communications within the region. The system will carry data, voice and images. This is called store-and-forward communications. Communications may include real-time chats. Services will provide some intercession; some better judgement calls and decisions; improve isolation issues and enhance education.

The system will not carry a human body that needs advanced medical care. It may help cut the numbers of evacuations through better diagnosis and consultation. It will enhance medical care to this region. It will not remove the need for treacherous evacuations that so often take place from King Cove.

The Providence Telemedicine Network is designed to be an integral part of a regional healtcare plan. It will help improve the emergency medical network over time with relatively little investment by those involved. Use of consistent emergency protocols means only patients requiring tertiary care will be transported. Outcomes will be improved care and reductions in transports. It will not eliminate transport.

For these reasons, we support the road between King Cove and Cold Bay and we support the use of telemedicine throughout the region.

KATHE BOUCHA-ROBERTS,
Director of Alliances and Telemedicine.
DESTYNE E. TAFT,
Telehealth Network Coordinator.

Mr. MURKOWSKI. Mr. President, some others argue that the building of a health clinic is the answer. Incidentally, I understand my good friend, Dr. FRIST, will advise us later on the aspects of telemedicine, what you can and can't do. I am most appreciative of that. Still, others argue building a health care center is the answer. The answer, again, is it helps; we have a little bit of it there, but without a proper cardiac unit or prenatal unit, the people will still need transportation to other locations outside of King Cove in times of emergency.

We are going to hear a lot of talk about helicopters. You are going to hear a lot of talk about helicopters from people who have never been in a helicopter when the wind is blowing 60 miles an hour, or have never been in a helicopter in severe turbulence. But I have, but not as much as the people I am going to talk about.

The Secretary of the Interior says, ''Well, just use a helicopter.'' Let me show the map of Alaska, again, because the nearest helicopter is in Kodiak. There is nothing wrong with the aspects of that, other than Kodiak is 300 miles away. Here is Kodiak Island right here. We are 300 miles away in King Cove. This would be like telling the residents of Washington, DC, that their trip to safety will be provided by a helicopter that comes from Waterbury, CT. How is that? Or any other area that you care to pick.

Even if a Coast Guard helicopter was stationed nearer to King Cove, where are you going to put it? There is not much out there in the Aleutian Islands. It is kind of tough to place the lives of Coast Guard personnel in danger when there are other alternatives.

Let's flip this around. They say that there are alternatives and the helicopter is another alternative. The helicopter folks say, a helicopter is fine, but there are other alternatives and one is a road.

Helicopters do not always work, for several reasons. First and foremost, they are not designed to handle severe turbulence. That is part of the daily life in King Cove. And any good helicopter pilot will tell you that the wind is not the issue, the turbulence is. The wind did not cause 11 deaths. It was the turbulence that caused the deaths.

That is what brought the aircraft down.

Second, we have done a little investigation working with the Coast Guard, who have been very responsive. The Coast Guard pilots are trained for maritime missions flying over water, not flying over mountainous terrain—not that they cannot do it, that is just not part of their training.

Third, do we really want to change the mission of the Coast Guard to handle land-side medevacs when other alternatives such as one simple gravel road exists? I can assure you, Mr. President, the Coast Guard does not support such a change. Recently the admiral told me so. And I will quote his letter.

I ask unanimous consent that it be printed in the RECORD.

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

DEPARTMENT OF TRANSPORTATION,
U.S. COAST GUARD,
Washington, DC, September 4, 1998.

Hon. FRANK H. MURKOWSKI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your letter of July 21, 1998, in which you requested answers to the following questions regarding the capabilities of the H–60 helicopters stationed at Kodiak.

''What are the operational minimums of the H–60 helicopters stationed in Kodiak in terms of weather, visibility, and such?'' Although Coast Guard aircraft routinely fly missions in extremely challenging weather conditions, they are subject to certain operational limitations. The pertinent operational limitations of the H–60 helicopter include the following: minimum take-off visibility of one-quarter statute miles for search and rescue missions and 60 knots of wind for aircraft startup.

''Is the H–60 an efficient helicopter in mountainous terrain with extreme turbulence?'' The Coast Guard's H–60 helicopters are optimized for low level flight in the maritime environment. As such, they are required to avoid areas of moderate turbulence or greater.

''Do Coast Guard pilots receive flight training for land-based missions in mountainous terrain?'' Coast Guard pilots do not receive any formal mountainous terrain flight instruction, although some units operating in higher elevations have developed in-house briefings to remind their pilots of the inherent dangers of flying in mountainous areas.

''Are shore-side civilian medical evacuations part of the statutory authority and/or primary mission of the Coast Guard?'' Shore-side civilian medical evacuations are the statutory responsibility of the National Highway Traffic and Safety Administration. Although not a primary mission of the Coast Guard, we sometimes become involved in these types of missions when assets are available and our assistance is requested by an appropriate organization.

''If a Coast Guard helicopter was on a maritime mission and a medical evacuation at King Cove was required, would it abort the maritime mission?'' The decision to divert from a maritime mission to a shore-side medical evacuations must be made on a case-by-case basis, considering both the severity of the shore-side medical condition and the nature of the maritime mission.

''To what types of medivacs would the Coast Guard respond? Would a compound fracture of a arm warrant a Coast Guard response?'' When the Coast Guard receives a request for a medical evacuation (MEDEVAC), flight surgeon is consulted to determine if a MEDIEVAC is necessary based on the patient's condition.

Typically, conditions threatening loss of life or limb would warrant a MEDEVAC. Although a compound fracture to the arm would not normally justify a MEDEVAC, there may be situations where a MEDEVAC is authorized based on the severity of the injury, or the potential for additional injury.

You also asked whether the Coast Guard would support a legislative change to require us to do shore-side medical evacuations. The Coast Guard could not support such a legislative change. The Coast Guard is a sea going service. Our personnel are trained and equipped to operate in the maritime environment, which poses very different challenges from those faced by shore-side responders. For the Coast Guard to take on the additional responsibility of responding to shore-side medical evacuation would require a fundamental change in the way we do business, a substantial increase in funding, and complete reevaluation of our asset siting.

In summation, although the Coast Guard is more than happy to respond to shore-side medical emergencies as time and resources permit, we cannot and should not be seen as the primary responder to these types of incidents.

We hope the above information is helpful. We appreciate your continued interest and support of the Coast Guard.

Sincerely,

JAMES M. LOY,
Admiral, U.S. Coast Guard, Commandant.

Mr. MURKOWSKI. This is a quote:

The Coast Guard is a sea going service. Our personnel are trained and equipped to operate in the maritime environment, which poses very different challenges from those faced by shore-side responders. For the Coast Guard to take on the additional responsibility of responding to shore-side medical evacuation would require a fundamental change in the way we do business, a substantial increase in funding, and a complete reevaluation of our asset siting.

Mr. President, on a more somber moment of reflection, the men and women of the Coast Guard are brave souls. I served in the U.S. Coast Guard. I am very proud of that body and proud of the time that I served our country.

Men like Kevin M. McKracken from Springfield, OR, 25 years old; William Gregory Kemp, 27, of Docena, AL; David Rockmore, 52, of Cambridge, PA; Ralph King, 24, of Arden, NC; Michael C. Dollahite, 38, of El Paso, TX; and Robert L. Carson, Jr., 38, of Bostic, NC, all of whom perished, they all died, Mr. President, in a Coast Guard helicopter crash during an attempted medevac rescue on Ugak Island in Alaska. They crashed, Mr. President.

That is the harsh reality of the danger of those who are prepared to give so much for the benefit of others. You are not just talking about sending a helicopter willy-nilly 300 miles, you are talking about a tough set of facts here, Mr. President.

I have had discussions with the Secretary of the Interior. He may be willing to generalize on the issue of danger and the fact that the helicopter is an answer. But, you know, where do you get the appropriations for a helicopter—you have to have two crews, you have to have hangars; you have a population of 700 people here—when you have an alternative, a simple gravel road? That is all we are asking for. And you can debate whether we are wrong or right; we will take our chances.

Let's talk about a sea link. That is interesting. You still have a population of 700 people. It would require a tremendous infrastructure. For example, you would need a 150-foot-long vessel to operate in the rough seas, probably have to have some kind of an ice-breaking capability, have to have dock facilities constructed at both King Cove and Cold Bay, breakwaters requiring more than—well, it is estimated it would take more than 67,000 feet of fill that would have to be constructed in King Cove and Cold Bay. Roads would have to be constructed to access boat docks.

And even if all this were done, sick and injured people would have a minimum of a 2-and-a-half-hour, maybe 3-hour, trip in the treacherous seas. Let me show you a few pictures of what these seas look like. And it would still not be as reliable or as fast as a simple alternative of a one-lane gravel road. How many cars do you think you are going to have out of a population of 700 people in an isolated area going over that road a day? Three? Four? I do not know. Hardly enough. That is what you are looking at.

How would you like to take a ride on that? I can tell you, 90 percent of the people in this body would be hanging over the side, deathly seasick. They would hope the boat would roll over and sink. But that is the access that we have. And this is what is proposed to be some kind of a sea link at a cost—who knows what it costs.

We have had long debates in this body over the years about access to health care, haven't we? Nowhere does this take on a more dramatic meaning than King Cove. And when I say ''access,'' this means the actual physical ability to get to a hospital in a hurry, whether it be Anchorage or Seattle, WA, to get specialized health care needed in the event of a serious emergency or sickness. Right now, the residents of King Cove simply do not have that access.

We have had other debates about access across public lands. And I always go back to a conversation I had with the Secretary of the Interior, Secretary Babbitt. He said, ''If you folks have a need, show me an area where you need access across Federal lands, and I'll work with you.'' I cannot think of a greater need or an area that is more easily identifiable where we need access across Federal lands. And I would encourage him to reconsider.

I believe that we have shown in this case we have a need. For some reason or other, those in the administration do not seem to support our plea that this is a matter of life and death to our constituents as well as American citizens. I find it terribly disturbing that

where human life and safety issues are at stake, we see such an orchestrated effort to distort the facts by well-meaning people fronting for special interest groups, most of which do not give a darn about the people in King Cove or their plight, that through some idealistic interpretation they have taken this on as a cause. They fail to recognize what a gravel road is, fail to recognize we are not setting a precedent, fail to recognize we are not putting a road through a wilderness.

It is amazing, when you think about it. Here is the health and safety of my constituents. And I am not going to stand by, and let some of these special interest groups control the agenda, and ignore the viability of what we are proposing—no Federal funding, simply a land exchange. I do not believe any Member of this body would stand by and let their constituents face such conditions.

When we think about it, what does wilderness connote? Safety. Wilderness connotes refuge. So in making every effort to protect the environment and the surrounding ecosystem in King Cove, Congress unintentionally endangered the lives of those living in King Cove when it created the wilderness area.

So, what we are doing in Senate bill 1092, with my amendment, is righting a wrong by authorizing the one thing that we all take for granted when we are injured or when we want access, and that is a road. We do not want a paved highway, we want a little gravel road—that is it—a road to safety, Mr. President, a road to life.

Fourteen people have died. You know why they have died? Because there has not been a road. Fourteen people in the community of 700, 710 people. These are Aleuts. They have been there for 5,000 years. How many more lives are we going to be sacrificing for the bureaucracy to study alternatives until they can be provided with the access they so rightly deserve?

They have paid for this access, Mr. President, in blood. And this is an access that you and I take for granted daily. The designation of ''wilderness'' was never meant to prevent people from safe access to medical care, and I think we would all agree it would be absurd to argue otherwise.

My constituents, your friends, some of the people that you have all met with, the Aleut people who visited in Washington, DC, I think deserve an opportunity to save their lives in times of emergencies. They should not be held hostage to fear for life and limb by an administration or a Congress that somehow is carrying the water for some of the righteous self-interest groups. This is the situation we have.

In the end, those who vote with the people of King Cove may or may not be on the winning side of this issue but they will certainly be on the right side of the issue.

Mr. President, how much time have I used?

The PRESIDING OFFICER. The Senator has used about an hour.

Mr. MURKOWSKI. It is my understanding that there are 6 hours equally divided.

The PRESIDING OFFICER. The Senator has 2 hours remaining, yes.

Mr. MURKOWSKI. I want to make one more point, and then I will yield to my colleagues who are in opposition.

I noted an article in The Hill, one of Capitol Hill's weekly papers, on September 30. It amazes me because this is part of the problem we have, the failure of those who are in opposition—in this case, a letter from a senior vice president of public policy of the National Audubon Society.

It is entitled ''Murkowski's Bond Proposal is a $30 Million Boondoggle.'' It is to the editor. He says that the proposed solution of ''a road to life,'' as this Senator suggests:

> There is not a shred of evidence [in the writer's opinion] that a road will provide reliable, safe, medical evacuation in areas prone to avalanches, blizzards, white outs, dense fog, and extreme air turbulence.

I answer, very simply, that the roads are there now. The roads are passable. You might have to slow down. This is not tremendous areas of concentrated snowfall. The problem is extreme turbulence associated with moving an aircraft through the skies during those terrible storms. So the roads are there now.

He goes on to say:

> In fact, this single lane, 30-mile, $30 million gravel road is a taxpayer and environmental boondoggle.

That is an outright lie. That is an outright lie. We are not asking for $30 million. We are not asking for a red cent. This is how this issue is portrayed to the American public—''30-mile, $30 million gravel road is a taxpayer and environmental boondoggle.'' A cool $1 million per mile.

That road isn't costing $1 million per mile, and we are not asking for Federal funds. They mischaracterize it. Why, Mr. President, can't we have a debate on the merits without misleading the people?

Talk about the bird habitat—I appreciate and am sensitive to it. This road is not going to interfere with that anymore than we have seen roads in Cordovo or roads in Juneau interfere. The fact is that we are only talking about a population of 700, and the roads already exist in the wilderness.

He suggests an all-weather boat ambulance could effectively back up this facility. I think you have seen the picture. You have seen, also, the people who have perished. He talks about a ''life-saving boat'' plan as a solution. He doesn't mention the bay freezes.

Again, it is a case of somebody who has never been there, never experienced the isolation, what it means to be without access. Clearly, there is an alternative. We suggested it in this legislation.

Again, I encourage my colleagues to reflect on the appeal of the people from King Cove who have come to their offices, to recognize, indeed, how they would respond if it were their constituents, and recognize that there is a viable alternative here, and that is a simple road which is a win-win-win—the environmental communities and the wilderness—because we are adding 580 acres to the wilderness and we are not putting a road through the wilderness. We are doing a land exchange and putting that road through a refuge.

It will be my intent to talk a bit more a little later, because I am sure some of my friends may have some questions or I may have a rebuttal. With that, I thank the Chair for the attention. In deference to my colleague, I recognize we had conversations relative to the merits of this and I know, obviously, there is pressure by the administration on this particular issue. I take that in the spirit under which it is going to be communicated.

I yield the floor.

Mr. BUMPERS. I yield the Senator from Montana such time as he may consume.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I begin by first thanking my good friend from Alaska for bringing this up as a freestanding bill. One of the objections I had earlier with some of the riders in the Interior appropriations bill first on the merits of those provisions of the bill which I think in many cases were ill-advised.

A second objection I had to the riders were just that, they were riders on an appropriations bill; that is, measures which have very significant public policy implications and very significantly affect our country, many of which had no hearings. It is true one or two may have had hearings, but, by and large, the riders did not have hearings. Here we are, taking them up and passing them without an adequate opportunity for debate.

The American people, rightfully, get a little upset when Congress does not in the full light of day debate the pros and cons of issues, and fully air these issues. They don't like it when riders are slipped into an appropriations bill. I might add, there will be a lot more slipped in before this Congress adjourns in the next 10 days.

I very much thank my good friend from Alaska for bringing this up as a freestanding bill. That is what we are supposed to be doing here, debating issues, what the pros might be, what the cons might be, and have a debate and see what makes sense and then vote. That is the legislative process, the way it is supposed to work, and certainly the way the American people would like it to work in our democratic form of government.

Senator, I thank you very much. I want you to know that I very much appreciate your bringing this bill up as a freestanding bill. That is good. I wish, frankly, that the other riders in the appropriations bill would be brought up in the same manner.

I might say at this point those who are opposed to the riders have not had an opportunity to move to delete them. That is because the appropriations bill has been withdrawn. It is no longer under consideration before the Senate. So at least we have an opportunity to debate one of those provisions, and that is the Izembek Wilderness issue of the King Cove—Cold Bay matter. I thank the Senator for doing that.

Turning to the merits, on the surface, the argument of the good Senator from Alaska makes some sense. It has some merit. After all, we are talking about two very remote rural communities, Cold Bay and King Cove. They are not very far apart in miles, but they are quite far apart in terms of weather. There is a big bay between the two. They are different also because of the weather. When people are injured in King Cove, sometimes they may need to get to a hospital up in Cold Bay. It is very understandable. I appreciate that.

In my State of Montana, we face the same problem. Very often in rural parts of my State people want access to medical care. They don't have good access. I might remind my good friend from Alaska he and I cosponsored a bill to grant telemedicine capability to rural States. In fact, we have both stated that Montana and Alaska desperately need better rural health care access. We have the same problem Alaska does.

We also have crashes of medevac helicopters in Montana, just like the Senator from Alaska referred to in his State. We have mountains. Health care access is very important. I deeply sympathize with people in King Cove, as well as those in Cold Bay—particularly those in King Cove, who need access to health care. As I understand it, 11 people have died in plane crashes in the general area. In one case, four people were killed in one emergency medical evacuation. The other people lost their lives due to reasons other than medical evacuation.

We have the same problems in my State. Many times, in Montana—and I am sure this would be true with respect to the proposed road, and it is true in Alaska where there are roads—the snow drifts. In the State of Montana, we don't get a lot of snow, believe it or not, Mr. President. There is a general myth in the country that, in Montana, it is cold and we get all kinds of snow. Our average precipitation, including rainfall and snow, is about 14, 15, 16 inches a year. We don't get a lot of snow.

We are not like Buffalo, or like the snowbelt up in northern New York. We don't get a lot of snow. But when it does snow, it very often blows and drifts, as I am sure is the case in the State of Alaska. It is those drifts that stop the traffic, that cause people in smaller communities great difficulty in getting to a hospital. For that reason, we have a lot of medical assistance facilities around the State. They are small facilities to help people get better health care when they cannot immediately get to a hospital because they are so far away, because of bad weather, or whatever the cause.

Sometimes we try helicopters and the medevac, but often in bad weather that is dangerous; it is not always a sure thing. We are also adding a lot of telemedicine, as many States are, for rural areas. Telemedicine has a very significant role in helping to provide better health care to our rural communities. Is it the sole answer? No, by no stretch of the imagination. But more and better telemedicine will provide better health care to a lot of areas.

So I want to say to the Senator that I do sympathize with the need for health care in rural areas. It is a problem. But we have to ask ourselves, as almost always is the case, what is the best way to get health care to rural areas?

In the first place, it is not clear that the road is the only option for providing better health care to the residents in King Cove, or even the best option for providing medical emergency services.

A few years ago, the State of Alaska began a comprehensive study of transportation between King Cove and Cold Bay. It was a major study. That study is now examining three major alternatives to tie the two areas together. One is improved air transport. Another is better marine facilities. The third is a road. I have a copy of it here. It is the King Cove/Cold Bay Transportation Improvement Assessment, prepared by an Alaskan company in Anchorage in cooperation with Northern Economics, Anchorage, AK, dated November 1997. This is a draft assessment of transportation needs conducted by the State of Alaska, to determine better access to rural areas in Alaska.

When it comes to emergency medical transportation, I must say that even this preliminary study shows that there is no single silver bullet. There is no panacea that is going to solve the problem the Senator addresses. After all, bad weather is bad weather—whether it is high winds blowing to make air transportation difficult, or whether it is wind blowing snowdrifts over a road. And I must say, many days of the year on this proposed stretch that we are talking about here, it may be impassable; there are snowdrifts. Sure, we have to get more highway equipment out there to open up the roads in the winter. Sometimes that can be done quickly, but sometimes not. An emergency is an emergency.

Many times, in my State, roads have been impassable for long stretches of time—close to a day—because of snowdrifts. I would guess that the same could probably happen along the road we are talking about here. Indeed, if you talk to residents who live in the area and who have written letters opposing this proposed road, that is just what they say. It is very hard during certain times of the year to get a road open because of drifting snow. I have a letter here.

(Mr. ROBERTS assumed the Chair.)

Mr. MURKOWSKI. I wonder if my friend will yield for a question on the snow.

Mr. BAUCUS. When I finish this letter. This is a letter from a resident of Cold Bay. She says: ''As a lifelong resident of this area, I have some great concerns with the proposed legislation . . .'' She talks about the 25 mile proposed road. ''When we are having inclement weather, are we to believe a vehicle could drive 27 miles in whiteout conditions, drifting snow, and winds?'' She says that she lived 3½ miles out of the town of Cold Bay for 4 years with so-called ''road access'' to Cold Bay. During the winter, she says she spent many months stranded at home, or in town, depending upon where she was when the storm came. She says that the drifting snow would be so bad that it would take days—that is probably a slight exaggeration—to get the 3.2 miles plowed enough to be passable.

That is not the only letter we have received. Here are some more letters from citizens from Cold Bay, AK. They say that in poor weather conditions, such as blowing snow and freezing rain, road travel becomes equally treacherous. On the Alaska peninsula they could only make the road passable seasonably. That is their view, and they live there. They talk about an alternative, which is mentioned in the Alaska report—a small ferry system—and improving the dock facility at Cold Bay. They go on to say that this has been studied for a while, and with state-of-the-art navigational aids, marine transport is probably more reliable. I might say, that is probably true in one respect. That is because, actually, the weather in the bay is not as locked up with ice or as cold as we might be led to believe. I will get to that in just a second.

I have now a letter from a doctor. He comments on the road alternative. He is commenting from the point of view of medical services in King Cove. Basically, he says that while flying is obviously potentially hazardous, the proposed road in an Aleutian storm or blizzard could be equally hazardous when one considers nearly zero visibility, the absence of other traffic, the long distance through very isolated country and, of course, the ever-present winter danger of avalanches.

He went on to say that he is strongly recommending several measures which would result in a marked decrease in the number of medevacs. What he thinks would be more reliable in the event of emergencies necessitating medevac would be, foremost, the implementation of state-of-the-art telemedicine. He goes on to say that another option that would circumvent the hazard of avalanches and of isolated highway transportation would be a state-of-the-art ferry system.

That is just one view of one doctor who lives in Alaska. I am not saying it

is conclusive or determinative, but it is a view of a doctor in Alaska.

I think we all agree telemedicine helps. I think we all agree that telemedicine is not the total solution. In fact, just in June of last year, I was very proud to have had the Senator from Alaska join me when we introduced the Rural Telemedicine Demonstration Act. We want HCFA to spend up to $2 million, if we can find the funds, for computer-assisted medical information for Alaska and Montana, two rural States that contain most of the remote and frontier health care locations. Senator MURKOWSKI says that telemedicine has already proven to be cost effective and a practical answer to the Alaska dilemma of how to provide modern health care in a vast geographical area, an area completely unconnected by roads and with access only by airplane, snowmobile, or dogsled.

Telemedicine is helpful. It is not the total solution, by any stretch of the imagination, but it is very helpful. There is no single bullet. There are problems with all forms of health care assistance in very remote rural areas.

The State of Alaska, I might say, is studying different options right now. They have not reached a conclusion as to what the best option would be between King Cove and Cold Bay. One option is Coast Guard air evacuation helicopter. Helicopters work sometimes; they don't work sometimes; it depends upon the weather.

Another option is improved port facilities and special marine ambulances. This doesn't always work, but it works very well sometimes. And another is telemedicine. We all know that advanced telemedicine is going to be quite helpful in more rural areas.

I want to underline that this study by the State of Alaska on what the best transportation option would be between King Cove and Cold Bay is not complete. It is underway right now. The State of Alaska is trying to determine, itself, what the best way would be to provide the best access between those two communities. They are looking, obviously, at effectiveness. They are looking at cost. They are looking at the environmental impact.

You don't need to pass this bill before us to complete the evaluation process. You only need to pass the bill if you have already decided to build the road. But we should wait to see what the study says before we go ahead and build this road.

In addition, there is another study going on to address this same problem. In the transportation appropriations bill passed by this body, the senior Senator from Alaska included a provision for another study of transportation access. This is a study that would be done by the Army Corps of Engineers. The Senator from Alaska provided about $700,000 for a study by the Army Corps of Engineers to determine transportation access needs and solutions in Alaska.

That means we have two studies going on. One is the State of Alaska study, and the other is the Army Corps of Engineers study. At the very least, I think it is premature at this point to authorize a road. Rather, we should wait and see what the studies come up with. Otherwise, I just think we are wasting taxpayers' money, particularly the Army Corps of Engineers money, if we are going to decide what the solution is in advance.

It reminds me of ''It's Your Money'' on TV. We spend $700,000, and the State of Alaska spends State money, to study a solution. But, before the studies are done, the money is down the drain because Congress steps in and decides what the solution is going to be.

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

Mr. BAUCUS. Sure.

Mr. MURKOWSKI. I would like to point out again, relative to the snow, that the question was brought up by the Senator from Montana, suggesting that because of his opinion on the amount of snowfall that occurs in Montana, we must have that same condition. But isn't it rather unusual, the U.S. Fish and Wildlife Service, in their notice of extreme weather, notes ''wind, rain, and fog, drizzle, overcast skies.'' Isn't it unusual that it would omit ''snow''? And in fact the reality is, there is very little snowfall in that area. I can't tell you how many times—I am sure you have gone to the airport by car and found out that the airport is closed and you had to drive someplace else.

Mr. BAUCUS. That has happened to me many times.

Mr. MURKOWSKI. You can't do that if you live in King Cove and Cold Bay.

Mr. BAUCUS. If I might answer the Senator's question, I am not saying that, just because the roads in Montana are often impassable because of snow, the same must be true around King Cove. I am saying that is the opinion of a good number of residents. That is what they say, that very often snow conditions make the roads impassable.

Mr. MURKOWSKI. The U.S. Weather Bureau notes that Cold Bay is the third most windy city in the United States; the third most rainy, with 226 inches; and it is the cloudiest; and for 305 days a year it is cloudy in King Cove-Cold Bay.

Mr. BAUCUS. Mr. President, I would like to point out what the State of Alaska study is really all about.

I have here on this chart the basic purpose of the State of Alaska study—determining what the best solution would be in terms of access between King Cove and Cold Bay. Let me just show you what they are.

The first purpose of this study is to reduce the infrastructure maintenance and operation burden. It doesn't say anything about medical needs or medical safety.

The point here is that these are two separate communities, and some folks in both those communities think that maybe they should combine schools and have one school instead of two. After all, there are about 700 or 800 people in one community; that is, King Cove. There are about 100 folks, as I understand it, up around Cold Bay. Why not? It makes sense to maybe have one school, and maybe the same health care facility, and maybe share power generation or the public works facility. The Alaska report says that this will reduce the cost of living in these communities.

The first purpose of the study is to reduce the cost of living in King Cove and Cold Bay. The second purpose is to improve safety and convenience of travel between King Cove and Cold Bay. That is No. 2.

We talked a little bit about safety. You might note that point No. 2 says convenience—not just medical safety, but also convenience.

The third purpose, I might add, Mr. President, is really the most interesting. The third purpose is to strengthen regional economic development.

King Cove—that is on the lower part of the map—is a major hub of the fishing industry. It has extensive fish processing facilities. But it doesn't have an airport capable of handling large cargo planes. Cold Bay does. That is the big difference between the two. Cold Bay has no deep-water ports. King Cove is just the opposite: deep water, no airport. Therefore, the construction of a road between King Cove and Cold Bay would provide a significant economic benefit to the fishing industry and to the local economy.

Let me read from the State of Alaska initial study:

> A stronger, more reliable transportation link between the two communities would facilitate the movement of fresh fish between King Cove docks and the marketplace, allowing fresh fish from the processing plants in King Cove to be on a plane bound for anywhere in the world within hours.
>
> The cost of shipping would decrease as would delays, inconvenience and uncertainty caused by transportation modes that are expensive, inconvenient and dangerous. This would open up new markets and increase the competitiveness of the Alaska fishing industry.

And later the study notes that commercial fishermen support building the road because the road ''will provide the most economic, reliable, flexible and convenient means of moving their product to an airport''—that is up in Cold Bay—''capable of supporting 747 operations.'' That is, airplanes, 747s.

I can understand why the people down in King Cove would think a road is a good idea, to promote economic development. Again, the study says that improved transportation has three purposes—one is improving the infrastructure, the second is convenience and safety, but the third is economic development. Safety is only a very, very small part of the study here. We were led to believe it is about the only reason, but the fact is, the real driving force here is not safety. The real driving force here is to get fish that are

processed down in King Cove up to the airport so they can improve market access around the world.

Now, there is a huge processing plant down in King Cove. It is one of the largest in Alaska. That processing plant processes, I think it is about 38 to 40 million pounds of fish a year.

The company is Peter Pan, which has the big processing plant down at King Cove. I am reading now from the study, the Alaska study:

With improved access, major freight movements from King Cove to Cold Bay would likely consist of fresh fish and seafood from the Peter Pan plant. Discussion with Peter Pan's staff suggests that up to 5 percent of their product may move into the fresh market if good access is available to the Cold Bay airport. Although Peter Pan's total production volume is proprietary information, it is estimated their total product volume is in the 30- to 40-million pound range. Employing the 5-percent estimate provided by Peter Pan suggests that ultimately approximately 1.5 to 2 million pounds of fresh fish could move to Cold Bay annually. Packaging and jell ice would add an additional 15 percent, for a total gross weight of about 2 million pounds.

I don't know how much you can put in a truck. Some say about 10,000 pounds. That means that if this road is built, there are going to be hundreds of trucks full of fish on this road to get out to the Cold Bay airport.

This report also goes on to say that:

Forthcoming individual fishing quotas for halibut and black cod, additional market efforts by Peter Pan could increase the amount by 25 to 50 percent within 3 to 4 years.

So that is what is happening here—and I understand it; if I were in King Cove, I would want the same—a large fish processing plant wants to road-haul their product, about 2 million pounds of fish a year, to the airport. My calculation comes out to at least 200 trucks, maybe more, a year, and add to that all the other folks who are going to be traveling on this road.

This is no small matter. This is not just emergency medical access to a hospital. That is not the issue at all. In fact, I have other data that show, again from the Alaska study, there have been no fatalities in air evacuation in the period of time studied; 95 percent got to the hospital from King Cove within 24 or 48 hours, 75 percent of the medevac transports from King Cove to Cold Bay had no delay.

And I only use these dates, these periods, because that is the data in the Alaska study. I don't have any more current data or different data. Again, the data shows that with respect to medical evacuation to King Cove, January, mid-January, 1996 to near the end of June 1997, total medevacs were 20: No delay, 15; 3- to 4-hour delay, 4; 24-hour delay, 1.

Not perfect but not too bad. And most of the air accidents that occur near King Cove have really little to do with medevac. There are other accidents that have occurred.

And I might say, too, that Pen Air—an airline, probably a commuter airline, in Alaska—has about 1,800 flights a year between King Cove and Cold Bay—1,800 a year. So planes do fly in and out from the area; that is, King Cove to Cold Bay.

The study also points out that there is no greater need for air emergency transportation here than in other places in Alaska—no greater need. That is in the Alaska study. Essentially, as I said, Pen Air now makes more than 1,800 one-way flights between these two communities each year, and they have had three accidents over 20 years. The State has concluded that the accident rate is still low and that—this is the State's conclusion—''that the residents of King Cove are in no greater danger than other Alaskans who rely on air transport.''

So again to review, No. 1, the State is doing the study. There are many alternatives under review, and air evacuation is relatively safe. But there are other driving forces here that are pushing for the road, which brings me to my final point—the environmental impact of building a road through the Izembek Refuge and Wilderness.

As has been noted, Congress has often adjusted wilderness boundaries. We have done it to correct mistakes. That is usually when we do it. We have adjusted wilderness boundaries because we have passed a wilderness bill and we made a mistake. We go back and adjust a boundary to correct the mistake. We have done it to accommodate preexisting uses that have been overlooked. That has happened a couple of times. We have also adjusted wilderness boundaries to provide access to inholders as required by law. But as far as I know, Congress has never authorized the construction of a road through a wilderness area to connect two points outside the wilderness area—never.

So the passage of this bill would set a very important precedent. You would say it is OK to construct a road through a wilderness area connecting two points. The argument we are hearing is that this bill will not lead to the construction of a road through a wilderness area, because we'd be taking an area out of the wilderness, transferring it over to the refuge, then building the road through where the wilderness was and saying, gee, we are not building a road through a wilderness.

Well, that is absurd on its face, Mr. President. Of course we are building a road through wilderness. On the map, as presented by my good friends on the other side, there is wilderness. There is a road through the wilderness. So we are building a road through wilderness. It is pretty simple. It is not rocket science. This is about a road through a wilderness.

It is also through a very, very important wildlife refuge. Again, here is King Cove down here, and Cold Bay is up here. The road would go through this area. The wilderness section is right here. The proposal is to make this no longer wilderness and then build a road through it. Of course it is a road through wilderness. They say, just take these lands out of the wilderness. That is what the bill says. In exchange you get some other area.

The use of the land in exchange, the net 580 acres, is land that is already restricted under the Alaska Native Claims Settlement Act. So there is no gain here. The net effect of all this is still a road through a wilderness refuge system. That is the net effect here, that is what we are doing.

Let me just address, briefly, why this is so important. We are now talking about a wilderness and refuge system that is extremely important. In fact, it is critical. It is critical resting and critical feeding ground for migratory waterfowl. It is absolutely critical.

This is Alaska, Canada, United States and Russia. These are the Arctic breeding grounds.

Let me back up. This little red dot here is the area we are talking about, the Izembek Wilderness area, the refuge wilderness area now in question. It is the major stopping ground for many, many birds. Why? It is very simple.

Birds come up from the south. Let me mention what some of them are. One is the Black Brant, 150,000 land here in the spring and fall; the Emperor Goose, 100,000 in the spring and fall. Let me say, all of the world's Emperor Geese land here; all of them. All the world's Emperor Geese stop here at the Izembek Refuge and Wilderness. All the Pacific Black Brant stop there; all of them. Then there are Canadian Geese; 85,000 stop in the fall; Stellers Eider stop in the fall and winter. Shorebirds, 31 species, 300,000.

''Why do they stop there?'' you ask. What is so special about this location, this place? I will tell you what is so special. It is a wetlands. It provides food. These birds, amazingly, have flown, some of them, all the way to Australasia, a long way. And some of these birds go to Mexico. That is the Black Brant. The Canadian Geese go to the Pacific Northwest. Shorebirds fly as far away as Patagonia. Can you believe it? Birds that nest and stop off to feed and fatten up so they can fly, fly as far away as Patagonia and come back to Izembek Refuge. It is amazing.

Basically, the birds come up, say, in the spring. They stop here to fatten up, to restore their energy after the long flight from the south. Then they go up further north. This is the breeding grounds up in the Arctic area where there is not as much food. It is good breeding grounds area, but there is not as much food. After the birds have bred, they fly south. They have to stop again here in the fall of the year when the summer is over to stock up again, get some food for that long flight to Patagonia, Australasia; these long, long flights. So this refuge is very, very important.

Essentially, I would like to remind all of us really what is at stake here and what is happening; namely, No. 1,

this bill is not needed. Why? Because there is a study going on, a study to try to find the best alternatives, what is right.

No. 2, the driving force here is really commercial. That is the driving force. There is a very large fish processing plant down at King Cove. They want to get their fish to Cold Bay. I understand that, but it is not emergency medical evacuation. That is not the reason.

And, No. 3, this road is going to very seriously disrupt these birds' nesting grounds. Why? If there is a processing plant down here and, as I mentioned—you do the calculations. According to the study from Alaska, there may be a couple of hundred trucks, at least added on, traffic back and forth, and then you could have more 747s. The Alaska study says the purpose of this is to fill 747s. That is what the Alaska study says, the 747s in Cold Bay. I might be wrong, I say to the quizzical look of my friend from Alaska, but that is what the study says: 747s. They may be wrong, but that is what the Alaska study says.

So it is really to connect these two towns commercially, for convenience and so forth. That might be a good thing to do. It might not. Let's wait until we get the study and see what the study says.

Remember, this is very serious business here. It is potentially setting the precedent, building the road connecting two areas outside of a wilderness area; that has never been done before. In addition to that, disrupting a very sensitive population of birds with 747s and other airplanes of that size flying in and out much more frequently, because of all the trucks going back and forth and often in very impassable conditions, because of snow conditions, it is going to cause a very significant effect on the wildlife there.

I will just sum up and say I thank my friend from Alaska for bringing this up as a freestanding bill. These riders are a bit of a problem because they are riders, but as a freestanding bill we can talk about it and debate it. I appreciate the Senators taking good care of their State. This is something that some people in Alaska want. I understand that. But this is a national refuge. We are talking about a wilderness area. We are talking about a refuge area which belongs to all of us in the United States.

I know the sensitivity that Alaskan Senators have. ''Here comes Uncle Sam all the time, here comes Secretary Babbitt, here comes the Fish and Wildlife Service. We in Alaska are told what to do by these outsiders.'' I understand a good bit of that because in my State of Montana, 30 percent of our lands are public lands and most of it is Federal. I understand that. So we have to find the right balance here, the right balance between the wishes of the residents of the State of Alaska as well as the national interest.

My conclusion is the best balance between the two is let's wait for the studies. They will probably come up with some better ideas than we have already come up with so far today. We do not have to wait that long. The medevacs are working. There are all kinds of ways to address this. Let's let discretion be the better part of valor here and not adopt an amendment at this time. Wait a while and then get the best result there. I yield the floor.

The PRESIDING OFFICER. The distinguished Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I want to encourage Members to read this article, a story about the hardships endured by the people of King Cove, and I ask that it be printed in the RECORD.

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

ROAD WARRIORS: COMMUNITY ENVIRONMENTALISTS BATTLE OVER ROAD THROUGH REFUGE

(By Maureen Clark)

KING COVE, ALASKA (AP).—On this blustery spit of sand, surrounded by treeless mountains that rise out of the Pacific Ocean and disappear into the clouds, a medical emergency can take on formidable complications.

Mariene Newman still gets a knot in her stomach when she talks about the three-day wait to get to a hospital after her daughter, Arlene, then 5, broke her arm while doing cartwheels six years ago.

Fierce winds were funneling through the mountain pass where the community's small air strip sits. Planes were grounded.

Newman watched and waited for a break in the weather, treating her daughter with painkillers and ice packs. Arlene couldn't keep food down and grew weaker by the day.

Finally, Mariene and her husband, A.J., a fisherman who grew up in this isolated community at the tip of the Alaska Peninsula, decided to risk the rough seas for the three-hour boat trip to Cold Bay and its all-weather airport.

By the time they reached Cold Bay, the little girl lay limp in her father's arms as she was carried from the lurching vessel, up a 30-foot ladder to the dock and taken to a plane bound for Anchorage, 625 miles away.

''My heart was just twisting,'' Mariene Newman said.

Arlene recovered and remembers little of her ordeal.

Mariene can't forget. ''No one should have to go through what she and I did.''

In this place where 80-mph winds are common in winter and fog can cut off the community for days at a time in summer, many of King Cove's 770 residents have similar stories.

They tell of stroke, heart attack and burn victims who had to wait days to get to a hospital; of premature babies born on fishing vessels and cradled in makeshift incubators.

The community learned the hard way not to take chances with the violent winds. Four people were killed when a medevac flight carrying an injured fisherman crashed during a winter storm in 1980.

A one-lane, 27-mile gravel road to the airport at Cold Bay would end their isolation and provide safe transportation in times of emergency, King Cove residents say.

The Cold Bay airport, built during World War II, is the third largest in the state with its 10,000-foot runway. It has even been designated as an alternate landing site for the space shuttle.

A rider in an Interior Department spending bill that Congress takes up this month would allow a land exchange to make way for construction of the road.

But the road would pass through part of the Izembek National Wildlife Refuge, a critical staging area for hundreds of thousands of waterfowl and birds and home to caribou and bears.

Conservation groups oppose the proposal, saying it would irreparably harm wildlife habitat and set a precedent for building roads through other wild places.

''This is the most important wetlands area in Alaska,'' said Deborah Williams, the Interior Secretary's special assistant for Alaska.

The issue is shaping up as the biggest environmental fight in Congress this year.

The White House has already issued a stern veto threat and the proposal could stall the Interior Department's entire $7 billion budget.

Sen. Ted Stevens, R-Alaska, who chairs the powerful Senate Appropriations Committee, said he is ready for a fight.

''If anyone in this Senate votes against me, this is one I will not forget,'' Stevens warned at a subcommittee hearing in late June.

Thousands of miles from the looming showdown in Washington, caribou graze in the hilly tundra, dotted with lakes. In the foothills of the mountains, bears feast on berries and salmon, fattening up for the approaching winter.

A quarter of a million Pacific brant, Steller's eiders and emperor geese are arriving in the refuge in waves on their fall journey south.

More than 186 species of birds use the lagoons that lie just offshore. Many depend on the abundant eelgrass and berries for critical nourishment during their long migrations.

''Nothing compares to this right here,'' refuge manager Greg Siekaniec said as he waved his arm toward the eelgrass beds of Izembek Lagoon and the Bering Sea beyond.

About 3,000 people from around the world visit the refuge each year to hunt caribou and waterfowl, watch birds, fish its salmon streams and hike its rolling hills.

The measure before Congress would exchange 85 acres of refuge lands for 664 acres adjoining the refuge owned by local Natives, resulting in a net gain of 579 acres to the refuge. The proposal would not provide funding for the road, which could cost anywhere from $10 million to $29 million.

Critics say the exchange would remove land from the heart of the refuge, which has been designated as a wilderness area.

''It's a tough sell from our standpoint, to trade a corridor for lands elsewhere that are less important biologically,'' said Allen Smith, Alaska regional director for the Wilderness Society.

Opponents of the road say a modern telemedicine system, linking the village clinic with physicians in Anchorage, coupled with a marine ambulance and improvements to the dock at Cold Bay, would provide a safe, cost-effective alternative to a road.

But telemedicine won't help stroke patients, heart attack victims or those suffering from head injuries who need to get to a hospital, said Leslie Kerr, one of two nurse practitioners who staff the village clinic. And King Cove residents say the stormy conditions that make air travel impossible would make travel in a marine ambulance treacherous.

''In any other place in America, you'd just call 911,'' Kerr said. ''We're just trying to get closer to what other people expect to receive.''

Even by Alaska standards, King Cove is isolated. Many residents have their groceries shipped in by barge twice a year. There is one restaurant and no movie theater. People like their way of life and don't expect the amenities that might be found elsewhere, said city manager Gary Hennigh.

''We'll never be in the same realm as mainstream America but it can still be as good as circumstances allow,'' Hennigh said. ''There's this big runway just 27 miles way. If there's an opportunity to make something better, we ought to find a way to make it happen.''

The rhetoric in the debate has grown hot, with a haze of charges and counter charges on both sides.

Supporters of the road accuse their opponents of valuing wildlife over human life. The refuge is already criss-crossed with trails left by 40,000 troops stationed at Cold Bay during World War II, they say.

Environmentalists counter that the real reason King Cove residents want the road is for the economic development it could bring.

King Cove is a company town. Local fishermen sell their catch to the Peter Pan Seafoods plant, the only cannery in town. With a road to the Cold Bay airport, they could fly their fish to other markets.

But Mayor Henry Mack, a fisherman, shakes his head when asked about economic development. With Alaska's wild salmon losing market share to farmed salmon from Chile, Norway and elsewhere, local fishermen would have a difficult time competing on the world market for fresh salmon, he said.

''Our first priority is a safe means of travel. If that's all this turns out to be, we'd be happy,'' Mack said.

Mr. STEVENS. Mr. President, I am saddened to come to the floor and find the Senator from Montana quoting from the State of Alaska study. I am equally sad to hear what he gleaned from it. I wonder if the Senator from Montana knows that the State study shows the average flight delay from King Cove to Cold Bay is 8.8 hours. Does he know the State study also said the best option to solve this problem is, in fact, the road that I want to discuss? But I am really sad that my State has not backed the people from King Cove the way it should have. As a matter of fact, the Associated Press did have an article that appeared throughout the country. I want to encourage Members to read this article, the story about the hardships endured by the people of King Cove, that I asked be printed in the RECORD at the beginning of my remarks.

I know the graphics cannot appear in the RECORD, but I hope the Senate will understand we are talking about King Cove, which is out at the end of the Alaska peninsula. The land on that peninsula is almost entirely withdrawn. There are some native lands on it, but it would not be possible to have a road go out of King Cove to Anchorage by land. We are talking about an area that is isolated by land, an area that is located just a few miles from Cold Bay, which is an alternate landing site for the space shuttle.

If you want to talk about 747s landing there, the space shuttle itself can land there, just 30 miles from King Cove. If anybody is worried about the turbulence and planes landing at King Cove, as far as the migratory birds coming in the Izembek, I think they ought to check again.

I argued against this land in its entirety becoming a part of the Izembek Refuge. Part of it is nesting and resting grounds for migratory birds. Part of it is a former airbase from World War II that I will describe. After it was made part of the wilderness area—it is strange, you make an airbase that has old Quonset huts and roads on it, and you say, by the stroke of a pen, ''This is a wilderness area now, this is a wilderness area; be careful, you cannot do anything more in this area.'' There are 42 miles of road advertised by the Fish and Wildlife Service as a good place to come hunt, but you cannot move the boundary 60 feet—60 feet—so we can build a road outside of that wilderness area and allow these people to come to Cold Bay to be transported another 600 miles from there to get to a hospital.

Mr. President, I welcome to Washington several of the civic leaders from King Cove. I am sure they are saddened to hear Members of the U.S. Senate telling them that their lives and their children's lives are less important than 60 feet along 7 miles of the southern boundary of this area that has been set aside and called a wilderness area.

When we first started wilderness, it was intended to include only roadless areas. It had to be roadless. When they made this into a wilderness area, I argued, ''How can you do this? How can you make that area that is part of the airbase into wilderness?'' They said, ''We need to round it out.'' They have rounded it out all right. They have rounded it out in a way that denies King Cove access to Cold Bay.

My people up in the gallery are a long way from home, Mr. President, and I do welcome them. I am sure that they are here to make certain that we do our job. I do this one very willingly—very willingly—because I represent a State that has two-thirds of its total land withdrawn. I have imposed the State of Alaska on a map of what we call the contiguous 48 States. It is going from Florida in the East to southwest of Arizona, almost to the Baja coastline, and from Duluth down to the Texas Panhandle. It is an area that is one-fifth the total landmass of the United States.

Two-thirds of all of our State is withdrawn Federal land. It is there for us to look at, but we can't use it without permission from some bureaucrat who is compelled by a law passed by the extreme environmentalists who come to this floor and say we need to withdraw more, we need to protect this more, we need to come up with some way to prevent Alaskans from living.

More than a third of all Federal land is in Alaska—more than a third of all the land owned by the Federal Government is in Alaska! The land owned by the Federal Government in my State is larger than Texas. The Federally-owned land in Alaska would be the largest State in the Union outside of Alaska. It is twice the size of California; 358 Rhode Islands would fit in the Federally-owned land in Alaska. Beyond that, half of the wilderness in all 50 States is in our State. A full 16 percent of this vast State of ours is called wilderness. The whole State is de facto wilderness, but because of an act of Congress, this area is deemed to be a kind of super-duper wilderness, impregnable by people who are seeking medical care.

We have 57 million acres of wilderness in Alaska, and we are talking about 60 feet along 6 miles of the smallest wilderness area in Alaska.

We see a lot of people come into our State from States that don't have any wilderness at all. They come and say, ''Oh, isn't it wonderful, all this wilderness.'' And they go back and have another group of D–8 cats clear and develop more of their land, and then they put the money they make from that into some organization to be sure they protect Alaska from any development. They are so extreme that they say this 303,000-acre Izembek Refuge, the smallest one of the 16 refuges in Alaska, is so sacrosanct that it cannot move its border 60 feet.

Mr. President, as I said, this whole area of the Aleutian Islands and Alaska Peninsula, almost all of it, is refuge land. This wilderness area is just a very small part of the 16 refuges in Alaska. We are dealing with just superlatives. The Izembek Wilderness alone is larger than the entire wilderness areas in most States. That is how small wilderness is in the South 48, but when it comes up our way, we get millions of acres at a time.

Let me tell you a little bit about King Cove. Everyone knows the Alaska Natives there have survived the climatic conditions of Alaska for thousands and thousands of years on the Alaska peninsula. They were a nomadic people originally. They followed the caribou and fish and lived entirely off the land. Early in this century, they settled into permanent communities, including King Cove—a fishing community. Some communities built local canneries.

The Japanese invaded the United States in World War II in only one area, as we all know, in the Aleutian Chain. When they invaded the Aleutian Islands, the U.S. Army built a giant base, Thornbrough Air Base, which was across the water from King Cove. Battle accounts will verify the inclement weather and how it played havoc on military operations in that area.

After the war, the airbase was converted to a regional airport. It is now Cold Bay, a small town of mostly Federal employees.

This is a picture of Cold Bay. As I said, the airbase is now an alternate landing site for the space shuttle. It has an enormous number of roads, apparent on the photograph I am showing the Senate, for a small community of Federal employees. This is the third largest runway in my State. It remains open throughout the year, rarely closing despite having the worst flying weather in the United States. Cold Bay itself is documented with the worst flying weather in the United States.

As the cannery and the fishing fleet grew, the Native people became more

acclimated to normal American life, and they sought better medical services. We created, soon after I came to the Senate, community health aides for Native villages. This village has a small clinic staffed by a couple of community health aides. Any serious injury or illness requires medical evacuation to Anchorage or, in some instances, as far as Seattle.

Like most Alaskan communities, the connection between the village and the regional airport is by air. Obviously, there are no roads through the peninsula. Nor is there now a road from King Cove to Cold Bay. The circumstances there, even though King Cove lies only 30 miles from Cold Bay, is that the airport at Cold Bay is far, far, far away. Thirty miles is a long way when you have to go from by water. That is one of the worst stretches of water known to man—the North Pacific Ocean—between Cold Bay and the King Cove.

Right there—King Cove is here and Cold Bay is across this body of water also known as Cold Bay. The purpose of this road is to allow the people who live in King Cove access to Cold Bay when the weather is so bad that it is not possible to travel by air or by sea. When it is calm, it is like any place else. They can take a boat across or fly the short distance. But the weather is rarely calm in King Cove.

The Native people decided that they needed a road for emergencies, when the weather precludes air and sea transportation. That is what this is, an emergency road. I cannot believe that anyone would talk about trucks and truckloads of stuff going to Cold Bay on this road. Only a small unpaved dirt road is planned. And the community asked the Federal Government for permission to build that 6 miles. They own the balance of the land here except for the 6 miles. The Government said no.

Then they offered a land exchange, acre for acre, for the 60 foot right-of-way; and the Federal Government said no. They then said, ''Well, we'll give you 664 acres in exchange for 85 acres if you move the boundary.'' They said, ''If we can get through here, we will give you all of this here and here'' to add to the Izembek Refuge. It is almost an 8-to-1 acre trade.

They specified they would use this road only for emergency use; and they further offered to help the Fish and Wildlife Service limit overall impacts of access on the whole refuge. And the Federal Government still said no.

Let me tell you why my friends are in the gallery, Mr. President. Eleven people have died flying into or out of the community since 1980. Many more sick or injured have died waiting for the weather to clear because they did not even try to make the trip.

Let me tell you about the people who died because they could not even start the trip: Ernest Mack and Walter Samuelson suffered heart attacks in King Cove, and waited days for weather to clear so they could fly to Anchorage. Both Ernest and Walter died because they could not get emergency medical care in a timely fashion.

Christine Dushkin suffered a heart attack, and then died after crossing the bay in very bad weather in a fishing boat. She collapsed as she climbed the long ladder up to the top of the dock at Cold Bay. She suffered a heart attack in King Cove and died before she got to the Cold Bay airport.

Cathy Hoff, Darien Gorsinger and John Dattoli lost their lives when their plane was blown into the side of a mountain by a gust of wind. They were people from King Cove who were trying to save the life of Tom Phillips, a Seattle fisherman, who had lost his leg in a boating accident in King Cove.

I have heard colleagues talk on the floor about the morality of an HMO denying a child desperately needed health care. At the time I thought about King Cove. Is it moral for environmentalists to come to the floor and do the same thing? Is it moral for environmentalists to oppose giving this isolated village a chance to get the kind of medical attention that is available to the rest of the United States?

A simple broken arm became a life-threatening situation after a 5-year-old girl went into shock while waiting for weather to clear. The shock was from the broken arm. She just had to wait and wait and wait for the airplane to be able to get in, and she finally went over on a fishing boat once the sea calmed down sufficiently.

One King Cove girl was born 2 months premature on a crab boat that was taking her mother across Cold Bay in very inclement weather. It was a very long trip, even though it is only 30 miles, because of the wind and sea conditions. This little girl was kept alive in a foil-lined shoebox stuffed in a toaster oven while the winter storm tossed that boat around before they finally got to the dock. She lived. She was fortunate.

The road to Cold Bay would have allowed these children to reach an Anchorage hospital in hours instead of days, Mr. President—hours instead of days. As I said, my State study shows, in one of the few things they did report to us favorably for our people in King Cove, is the average flight delay is 8.8 hours. That is average.

Once the people from King Cove get to Cold Bay, they have to fly 600 miles. You know what that is. That is a flight from Helena to Colorado Springs; from Little Rock to Milwaukee; from Providence to Columbus. That is just to get to the hospital. Just to land and then be taken by ambulance to the hospital. After flying more than 600 miles from Cold Bay.

I cannot believe that a heart attack victim in Helena would not be knocking on the door of the Senator from Montana if that person had to fly to Colorado to get treatment and was made to take a three hour boat ride in a raging sea just to make his flight. I cannot believe that a person suffering a spinal injury in Rhode Island would not complain about having to fly to Ohio for surgery. They would complain in the first instance just in terms of the distance between Cold Bay and Anchorage. The people in King Cove can accept the 600 mile flight, but they don't understand why the rest of their trip can't be made easier.

We are talking about the distance between King Cove and Cold Bay. The administration and their advisers in the environmental community insist that a 600-mile medical evacuation necessity is not enough, that we should throw in a 3-hour boat ride in a Pacific storm—maybe more than that, because some of them do take longer when the wind and sea run against the boat, tossing it like a cork in the ocean.

The Senator from Montana suggests we could use a helicopter. I wonder if he knows what the limits on flying a helicopter are in gale-force winds. We are talking about the normal conditions most of the year going across to Cold Bay—when the weather turns bad, as it often does, they get hurricane-force winds.

I really think that people who suggest that ought to come out and find a volunteer to fly them in a helicopter across Cold Bay. I would not get in a helicopter with an 85-mile-an-hour wind blowing. I was in Cold Bay once when we had to tie the nose of our four-engine airplane to a D–8 Caterpillar in order to keep that plane from being blown away in an 80-mile-an-hour wind.

This is a very serious thing to us. And as I have told the committee when we started this issue, this is the kind of issue that a Senator never forgets. I have heard other people say that here on the floor, and I have said it only once before in my life, but we cannot forget this one. This one means so much to so few people that unless we weren't a State and neither Senator MURKOWSKI nor myself was here, they would have no hope at all. This is why we fought for statehood, to have the opportunity to come and explain to the Senate and the rest of the United States what it means to live in Alaska.

In 1983, we moved wilderness in Montana—in Montana—so the people there could drive to a fishing hole. We moved that wilderness farther than we want to move this one.

Last Congress, we moved wilderness in Alaska so Natives living in a national park could use snow machines in winter. We were grateful for that.

Earlier this summer, 88 Senators voted to allow motorized transportation in the Boundary Waters Wilderness in Minnesota. We waived the Wilderness Act in Minnesota this year.

Since when have we placed recreation above the lives of children and people who need medical care?

When is the Senate going to start listening to those who come from an area that is closer to Tokyo than it is to Washington, DC? You don't know our land. You won't listen to us about our land and you raise our tempers because you won't listen.

The only roads in this wilderness were there when the wilderness was created, and it shouldn't have become wilderness. I told them at the time, as I said previously, wilderness by definition is a roadless area. Now, the 42 miles of road in Izembek today are used by my friends who have the money to go out there and hunt every year. Yet, we are told we should tell these people to use boats when no rational person, except in a life-and-death emergency, would leave the dock in such high seas. We are told to risk more air crashes, knowing that pilots who volunteered, knowing the risk, have lost their lives.

My friend will talk about telemedicine. No one believes in telemedicine more than I do. But telemedicine cannot deliver premature babies. Telemedicine cannot perform open-heart surgery yet. I hope the day will come when it can. We can't use marine ambulances. There is no vessel that I know of that can cross Cold Bay in a storm safely, let alone carrying an injured person. Helicopters will not take off and land in an 85-mile-an-hour wind.

It is time we stop talking about alternatives. By the way, I heard the Senator from Montana talk about the alternative that I suggested. I suggested building the road south of the Kinzarof lagoon. This land is all owned by the Native people. They could cross all the way on their own land, but it would close off entrance to the lagoon. When we asked the Corps of Engineers and the Fish and Wildlife people to look into it, I got the report that such a decision would, in fact, create a problem for the few migratory birds who use this lagoon—not the land, but the lagoon. We have abandoned that option because it would likely have a greater environmental impact than the road we are suggesting.

We don't believe our road will have any environmental impact with the conditions we have agreed to as far as its use.

Now, I think anyone that wants to put a helicopter there and tell the Coast Guard they should fly in such inclement weather, should talk to the Coast Guard. I have, and they declined the honor.

We are here as representatives of a State that have seen their lands withdrawn, withdrawn, withdrawn. The land I used to take my sons to every year to go hunting was withdrawn and is now a wilderness area. Access to most of my State is cut off on any north-south or east-west axis on the ground by withdrawals and wilderness areas.

There is now the spectacle of a former Member of the Senate, now Vice President, accusing me of burying this special interest rider deep in a spending bill so that it couldn't be found. I wish he were here so I might debate him on that. It is absolutely untrue. We opened this up in the committee. We had a vote in the committee. There was nothing hidden at all. It was public knowledge from the very beginning. Now we have people saying we are beginning to kill the Wilderness Act by moving the boundary of this area enough so we can build a 6-mile road, 60 feet wide, when the area itself already has 42 miles of road in it—the part of the refuge that will be affected by this road.

I do get excited at times here on the floor when I find there are so many half-truths and untruths told about what is going on in my State. I think we need to know and someone should come here and be bold enough to tell us why this gravel road, 60 feet wide, deserves to be classified as wilderness, and remain so, despite the loss of life of people in this area. Why is this little strip of road more important than the lives of Alaskans who have not yet died, coming out of that community, seeking medical attention?

We have a growing tension in our State—I speak of it often—concerning the way we are treated as residents of a State, compared to how we were treated when we were residents of a territory. We did not have extreme environmental organizations controlling the administration when we were a territory. We do now. The strongest extreme group in the United States is the extreme environmental organization. It is a direct result of positions taken by that group that the administration has opposed this road and opposed helping these people.

We believe we know how to protect our State and its resources better than anyone from Washington who flies in, spends 2 hours on the ground then flies home to tell us what to do—particularly our Native people. They have lived with this land for hundreds of thousands of years. They honor it.

Did you know, Mr. President, that we have developed less than ½ of 1 percent of 365 million acres? Roughly 18 to 19 million acres are occupied by Alaskans, Native, nonnative, military, nonmilitary, cities, towns—½ of 1 percent. Much of our lands are wetlands, as a matter of fact.

Here we are in a situation where during World War II there was more activity in this area than ever there will be in the history of the world—an enormous base, planes flying in and out, troops quartered 30 miles from the center of that base. They had more people there then than we will ever have on this road. In spite of the war, those birds survived. Isn't that strange that during the war, we flew planes, we maneuvered troops, we had real and mock assaults on the beaches, and the birds survived. I ask the Senate, can't we believe that the birds will not be harmed by people who live with them, but are merely seeking to cross the land in emergencies only?

I urge all of my friends to vote for this proposition. By the way, the largest group of volunteers to our military services in the country per capita are the Alaskan Native people. They believe in this country. They believe in this government. They fight for the government. And they wonder, then, why does the government abandon them because of pressure groups like this? There is no excuse, no excuse, for anyone opposing this proposition, in my opinion.

I urge the Senator to approve Senator MURKOWSKI's bill.

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

The PRESIDING OFFICER (Mr. HUTCHINSON). Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I very much appreciate the comments of the senior Senator from Alaska on the bill. His State and the people in King Cove and Cold Bay mean a lot to him, and they mean a lot to us. The junior Senator from Alaska mentioned, and perhaps even some of the residents of King Cove wonder, if we are concerned. I say to these King Cove residents, who are either in the gallery watching or listening elsewhere, all of us are as concerned about your safety—your medical safety and medical health—as the two Alaska Senators are. Obviously, we are; we are all Americans.

It is my feeling that maybe the best way to achieve better medical evacuation and better safety for the residents of King Cove is to complete the study—the two studies, actually. One is by your State, the State of Alaska, which is vigorously trying to figure out the best way to address better access between King Cove and Cold Bay. They are looking at various options—air options, marine options, road options. They are looking at telemedicine. They are looking at all the various logical ways to try to solve the problem.

We all know there is no silver bullet, no one alternative that is going to be the total solution to make sure that if anybody is ill or in an emergency situation in King Cove that he or she can immediately get the best possible care at a hospital in Anchorage, or even as far away as Seattle. There is none. So we have to find the right thing.

The other study that will be conducted is a $700,000 study of Alaska access issues by the Army Corps of Engineers. The study is at least now in the transportation appropriations bill.

So we have a lot of alternatives here. I think really it behooves all of us, including the residents of King Cove, to find the best option. We don't know yet what the best one is because it is a very difficult problem. It is difficult because of the residents' inaccessibility to Cold Bay and other parts of Alaska. The Senator from Alaska mentioned that I suggested helicopters. I did suggest that as one option, but not all the time. Many times, helicopters make no sense; for instance, when

winds are blowing 85 miles an hour. I would not get in one then either. That is not a silver bullet. It is probably a combination of a lot of different things.

No. 1, let's get the best solution and not rush to judgment and waste taxpayers' money by throwing two studies down the drain.

Another point I want to make is that the effect of this bill would say we are going to build this road. Some say it is a dirt road, some say a gravel road. Well, it is a dirt road, a gravel road. But they are trying to convey the impression that it is pretty small, no big deal. Actually, it is a pretty big deal. According to the Alaska Assessment Study of Needs the road is intended to be used year-round, with an average of fewer than 400 vehicles per day, including tractor-trailers carrying freight.

The Senator from Alaska questioned my assertion that freight could be hauled on this road. Well, I don't know. All I am saying is there is the contention, according to the State of Alaska study, that tractor-trailers would be hauled. The reason that is mentioned, frankly, is because of the fish processing plant—a very large one—in King Cove. It is one of the largest in the State of Alaska, where 30 million to 40 million pounds of fish are processed. Obviously, they would like to have this road to send the tractor-trailers on. This road would be designed for two-way traffic; it is not just a cow path. Again, at least the fish processing company would like to have this road.

Some have suggested this is not the only time we have adjusted a wilderness boundary. Several references have been made to the State of Montana, where there was a road—well, there wasn't much of a road, I say to my good friend who is now on the floor. It was for 4X4s to go down to the lake to go fishing. And then Congress enacted a wilderness bill, and it included the road in the wilderness area. It was a mistake.

Why did that mistake occur? I say to my good friend, probably because it wasn't much of a road. But it was a mistake. There was a preexisting kind of a road. Wilderness was created in the area, so the net result was that the road was in the wilderness area, that is true. But after we in the Congress recognized our mistake, we changed the designation so that the road could still be there. That is far different from this case we are talking about on the floor today.

We are talking about the creation and building of a new road through wilderness—building a road through wilderness. That is a totally different situation. Now, I call it sleight of hand to say, oh, no, this is not a new road to the wilderness because we are taking this area out of wilderness and building this road through it. Obviously, if you look at the maps, there it is. The map says ''wilderness.'' You can see where the road would be, and it would be through a wilderness.

I don't want to get too bogged down in all this, Mr. President. The fact of the matter is that our minds are pretty well made up. I think it is important to make it clear for the record what is happening here, what some of the other reasons are for what we are doing here.

Here is a photo. For example, this is a road—if you can see it. It is the kind of road that would be constructed in this area. It is a typical, good-condition road in Cold Bay, AK. As you can see, two vehicles can get by each other. As you can see, trucks could travel this road; tractor-trailer trucks could certainly travel this road.

On the other hand, this is the kind of road, if you will, that now exists in the wilderness. It has been mentioned that there are already roads in the wilderness. There really isn't much of a road. It is the kind in this photo here that exists in the wilderness. As you can tell, it is not much of a road. You could not travel on that year-round. Very few cars could travel on it.

We are talking about the construction of a pretty good road, up to certain specifications, which is not a highway, it is not paved, but as you can tell by the map here, it is a pretty good, decent road. In my home State of Montana, that is a highway. It is not an interstate, but that is a pretty good road.

Mr. MURKOWSKI. If I may ask this: Does the Senator know where that road actually is that he showed there? I have never seen anything like it. I don't know where it is.

Mr. BAUCUS. That is a photograph of the so-called road here on the map. Cold Bay is down here, and there is a road that goes up here. It is sort of a road trail that would connect with the proposed construction road. This is a map of this road provided by the Fish and Wildlife Service. That is all I can tell the Senator.

Mr. MURKOWSKI. The maps we have are the same thing and show the U.S. Fish and Wildlife Service sign.

There is a notable difference in the road.

Mr. BAUCUS. There may be a difference in the road. I don't know. One more point, in case folks haven't been listening to the entire debate: My view is there is a medical need. That is clear.

According to the State of Alaska, it is no greater, or no worse, than the needs of other similar communities in Alaska. There are several studies. Two are going on to try to address the best solution. The studies are looking at not only determining the best of three routes—air, water, road—but also trying to figure out how to increase the commercial viability of these communities. The real purpose here is to economic development. That is the driving force behind this road.

To sum up, let's wait until the studies are completed. When they are completed, my guess is that we will find a better way to help the people in King Cove, and in a way that does not disrupt a very sensitive national wildlife refuge wilderness area where hundreds of thousands of birds stop over in the spring and in the fall to feed and store up food for the breeding grounds in the northern part of Alaska, or to fly south.

The present occupant of the Chair wasn't here when I mentioned this earlier. These birds fly great distances. Some fly as far as Patagonia, if you can believe it, to the Izembek Refuge; to Patagonia and back again and up north to the Arctic regions in the summer to feed.

I urge Senators, the better option is to wait for the study. This is a very serious matter—building a new road in a wilderness area. It might not be the best option for the area. But we should wait for the studies.

I yield the floor at this time.

Mr. MURKOWSKI. Mr. President, I see my good friend is on the floor, the Senator from Tennessee. I note that he is the only physician in the Senate and is certainly eminently qualified with his wealth of knowledge on health issues. We have discussed issues today relative to health care. He has expressed opinions on everything from tobacco to children's health care. But I think it is important to recognize that he is an experienced and qualified trauma surgeon.

I wonder if the Senator from Tennessee would care to discuss the certain medical issues that are relevant to this debate and relevant to the timing of the debate and those who experience severe accidents to get to a trained trauma center with adequate personnel.

Mr. FRIST. Indeed, I would be happy to discuss some of these issues.

Mr. MURKOWSKI. Mr. President, one of the reasons the people from King Cove are, of course, pushing for access is that when a serious injury occurs, they understand that treatment has to be obtained in a relatively short period of time, in some cases immediately. Many of the health care providers in the area refer to the first hour after an injury as the crucial ''golden hour,'' so to speak, meaning that this is the most critical time after an injury.

I wonder if the Senator could shed some light on what that time is. What does that ''golden hour'' really mean?

Mr. FRIST. Mr. President, the ''golden hour'' is a basic fundamental principle of emergency care, of emergency responsiveness in trauma care. The Senator from Alaska is entirely correct. When a serious trauma occurs, it is that first hour, that ''golden hour'' that is absolutely critical.

The principle is very simple; that is, the quicker one can respond and get to appropriate treatment, the better the outcome. The ''golden hour''—put that in quotation marks. But it is a fundamental principle that every emergency room and every trauma surgeon understands. It refers to the principle that the severely injured patients are

more likely to survive with rapid, responsive, appropriate resuscitation, and treatment.

Patients with otherwise potentially survivable injuries can die unless there is intervention—frequently, surgical intervention—with appropriate resources accessed by that surgeon, or by that trauma personnel that is available. Delaying or failing to perform that needed emergency action or emergency surgery is the most common cause of those otherwise preventable deaths.

Mr. MURKOWSKI. I understand there is a distinction, Mr. President, between medevac trauma death and early trauma death. I wonder if the Senator could elaborate.

Mr. FRIST. There is. I think it is important. Again, the terms ''medevac'' and ''early'' are very appropriate. It is appropriate for people of the lay public to understand what those differences are.

In the case where you have a medevac trauma death, whereby the patient dies instantly, or within a very few minutes of whatever injury was incurred, there is little that can be done unless medevac treatment for that trauma takes place. So-called ''early'' death occurs within 2 to 3 hours of injury. In either case, the ability to get care immediately is the most single important factor in determining survivability and outcome.

Mr. MURKOWSKI. According to the draft study by our State of Alaska, Mr. President, the average flight delay from King Cove—I think it was cited by the senior Senator, Senator STEVENS—is approximately 8 hours. If a patient has a heart attack, stroke, or perhaps some other trauma, what are the chances for survival after such a delay?

Mr. FRIST. Mr. President, this is very well accepted in the emergency care peer review. The literature carefully documents it, and it is just as we discussed. With each passing hour the chances of survival diminish. If you draw a curve, the chance of survival in that first hour is very high, the second hour a little bit less, but still high, and every hour it diminishes over time. And that is the underlying principle of the so-called ''golden hour.''

Mr. MURKOWSKI. Mr. President, I appreciate the thoughts of the Senator from Tennessee on this.

Another subject that we discussed at some length in this debate is concerning safe access to the residents of King Cove. The argument is that telemedicine is the solution to the dilemma of the people of King Cove and the access. I ask the Senator from Tennessee if he would agree with the following quote from one of the largest health providers in our State, and that is:

The Aleutian Chain is without a doubt one of the most difficult places on Earth to provide quality health care for several reasons. Weather is a primary factor. Transportation in an emergency can be terrifying. It can also be deadly, and it can also be delayed. Many lives have been lost in the attempt of both patient and provider in working on evacuation teams. The Aleutians represent a unique opportunity to develop telemedicine. However, it will never eliminate the need for emergency transport to an acute care facility. That is, of course, what the access road is all about between King Cove and Cold Bay. The system will not carry a human body that needs advanced medical care. It will not remove the need for treacherous evacuations that so often take place from King Cove.

Talking specifically now about the technology of the advancement in this area of telemedicine, I wonder if the Senator could comment on the telemedicine technology benefits limitations. What kind of people do you have to have at the rural end to communicate this advanced technology that we are seeing in medical care today?

Mr. FRIST. Mr. President, telemedicine is, indeed, one of the most exciting new technologies to come along in medicine and in the application of carrying out what we know in terms of new knowledge, current knowledge, and the application. But it is very important for people to understand that its real limitation is that it is used principally for diagnostic purposes today. Over time that will change a bit. And it is advancing every day. But the quotation you just read is exactly correct. Telemedicine will never eliminate the need for emergency transportation, emergency transport, to an acute care facility.

Mr. MURKOWSKI. I think, Mr. President, the Senator from Tennessee would also be interested in knowing that there is no such thing currently as ground link communications in King Cove and that communications are by satellite.

As one person recently put it, ''If a successful fax transmission is a blessing, then successful telemedicine transmissions could be, well, perhaps a miracle.''

Mr. FRIST. Mr. President, I was not aware actually of that and the particular situation there in King Cove with regard to the satellite technology, but it really aims at a very important point, and that is, the premise of any telemedicine must start with reliable communications and it must end with reliable access to further care, for that care to be carried out—a very important point.

Mr. MURKOWSKI. May I thank my colleague from Tennessee for coming over and sharing his knowledge and experience in the area of not only telemedicine but as a trauma surgeon, and we have seen the Senator's performance when called upon here in this body in an emergency. We all commend the Senator for his extraordinary expertise and express our appreciation to the Senator for his many good works.

I thank the Senator.

Mr. President, I know the hour is late and the Senator may wish to continue to speak. I am personally just about to wind up here. I would like to make a couple of points relative again to the allegation that somehow a road—and again I would point to one of the charts—faces significant closures because of snow. As we have indicated on numerous occasions, even the U.S. Fish and Wildlife Service in their warning do not address snow as a difficulty in transit on these roads. This is the type of road you see.

Again, I would remind my colleagues that we are not looking for any funding here, we are looking for an authorization for a land exchange. We are not putting a road through a wilderness, we are putting it through a refuge. It is a net-net gain for the environmental community because it adds approximately 580 acres to the wilderness.

I also would like to point out that while my friend from Montana suggests we study it some more, we have been studying this thing since 1984. That is 14 years, Mr. President. We have had the Aleutians East Transportation Improvement Plan, we have had the Alaska Intermodel Transportation Plan, we have had the King Cove Bay Road Feasibility Study in 1995; the King Cove Briefing Report; the King Cove Bay Transportation Improvement Assessment draft report, 1997; the King Cove-Cold Bay Transportation Study of 1998.

My point is that this issue has been pretty well studied, and for the people who have lived there for 5,000 years in King Cove, there is only one possible option that makes any sense. And they are pretty savvy people, because they have to be, they live in a harsh environment.

We don't need another study. It is not going to save one more life. It will just delay the ultimate confirmation of what we already know—that the road is the most practical, it is the least expensive, it is the most reliable alternative. That is why everybody else has them. And why shouldn't the people of King Cove? That is the real issue.

Now, my friend brought up a point that I feel a little uncomfortable with because it questions our motivation. He suggested that the real reason behind this road was the commercial use.

Well, first of all, I want to tell him and I want to tell the rest of my colleagues that I have never, never been approached by the fish processing firms that are over there that this, indeed, would be a significant benefit, nor have they lobbied me.

If you understand the commerce of the North Pacific and the fisheries markets, you will know that most of the products that are produced in the small facility at King Cove are frozen fish products. Now, frozen fish products primarily are halibut and bottom fish, and they just don't demand, if you will, the market price to afford to fly them out to the markets. So as a consequence, what is produced here is carried by small freezer vessels and is marketed primarily in Japan and, to an extent, Korea.

If you look at the map of Alaska, you can see the unique location of King Cove and the great circle route, and that is the route of transportation. Most of these ships sail out of Vancouver, BC, or Seattle, WA. These are

freighters; they are American President Lines and various others. They go from the Seattle area and they stop by some of these areas on the Pacific Ocean side and pick up the frozen product in freezer vans and take them on to the Orient, whether it be the area of King Cove or whether it is Unalaska.

To suggest that we have enough value in our fish products to warrant moving them out by truck or van is totally unrealistic because the price simply won't support that. You can't get that much for the product. You can talk about all the studies you want. There may be a half dozen individuals who will suggest that this is a potential market, but if the reality of the price isn't there—and it isn't there—you are not going to ship this out.

I would ask my friend from Montana one other thing. Since we are giving the Secretary of the Interior the authority to control all the traffic on the road, would he vote for this—if, indeed, the Secretary said there will be no commercial activity? We assure him of that. Would that satisfy the Senator from Montana? I would certainly think it should, because this is the point. He questions our motive.

Mr. BAUCUS. May I answer the question?

Mr. MURKOWSKI. I can tell you right now, there is no way that the value of this product would allow it to be shipped out by aircraft. The only thing that we have that would closely approximate that value is the king crab fresh, but it is very, very difficult. It is a very short season, and this isn't the predominant area necessarily for that.

Mr. BAUCUS. Can I answer the Senator's question?

Mr. MURKOWSKI. I am not ready to yield yet.

Mr. BAUCUS. The Senator asked me a question. I wonder if I could respond to it.

Mr. MURKOWSKI. I am not going to——

Mr. BAUCUS. That was a rhetorical question.

Mr. MURKOWSKI. Yield at this time, but I will certainly take a question at the end.

Mr. BAUCUS. No, no; the Senator asked——

The PRESIDING OFFICER (Mr. GORTON). The Senator from Alaska has the floor.

Mr. MURKOWSKI. The point is, Mr. President, to question the motivation of the Senators from Alaska on the question of commercialization is without any foundation and without any feasibility regardless of what some study or report suggests as a potential alternative. It is simply not real.

Now, the other issue relative to the points that have been made by my friend from Montana, who clearly doesn't speak from experience or having visited the area, is the issue of the road and connecting, if you will, the roads that are in the area with this proposed extension.

I would call attention to the fact that we have in this area almost 15 miles of road in the wilderness now. And if my friend, when he has an opportunity, would care to visit the area, I would be happy to take him and drive over these roads that exist in the wilderness today.

What we are proposing is, not to address those roads, we are proposing simply to put another road extension, if you will, outside the wilderness in a refuge, and I think we have made that point again and again and again. To suggest there would be 400 people a day who would travel this road is ludicrous. There are 700 people in King Cove. There are 110 or 120 in Cold Bay. Now, I don't know where you get 400 people, or hundreds of trucks. This is make-believe simply to address an issue that—well, there is little local knowledge certainly in this body relative to the factual account.

Believe me, if we could ship our products out by 747 and get the price that we would have to get for them, why, it would be a different matter. You talk about the issue of the sanctity of the wildlife sanctuaries, and that is a very real issue. But be assured that we have, as Senator STEVENS indicated, in the Cold Bay airport a world-class airport. Prior to the advent of the long-range 747, many of the aircraft that traversed the North Pacific route had to land there for fuel. It was a big fueling base. Flying Tigers went in there for years and years and years. And to suggest that had a detrimental effect on the wildlife patterns is clearly without any merit.

Furthermore, I would refer one more time to the fact that we have attempted to meet more than halfway every objection brought by the environmental community, even to the point of giving the Secretary of the Interior the authority to direct the type of traffic on this road. Mr. President, I think we have pretty well covered all the concerns, except some of the irrelevant and impractical considerations that have no bearing on reality.

So, I ask my colleagues, and the floor manager on the other side, how much time? Can we get an agreement on a vote? I could go on all day, but I defer to the floor manager on the other side to see if we can get some idea and certainty about how much more time they would like on their side.

The PRESIDING OFFICER. The Senator from Alaska has 55 minutes remaining. The Senator from Arkansas has just under 126 minutes remaining.

Mr. BUMPERS. Mr. President, I yield myself such time as I may use.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, this is a very difficult, a very difficult undertaking for me for a number of reasons. No. 1, my profound and unrestrained respect for the two Senators from Alaska who obviously feel very strongly about the issue. It gives me no pleasure to be on the other side.

I sit as ranking member on the Energy and Natural Resources Committee where Senator MURKOWSKI is chairman. I have been on Appropriations for 22 years where Senator STEVENS is chairman. They are no different from any other Senators of the U.S. Senate who, when they have a problem, have no hesitancy about doing everything they can to solve it for their people. That is what we are all here for, to serve our people. So it is with considerable regret that I find myself feeling compelled, however, to oppose the amendment and the bill.

Let me say, also, that lack of health care is not just peculiar to Alaska. I grew up in a community of 851 souls where we sometimes had one doctor but most of the time we had none. My mother and father moved from a mountaintop farm into this little community of 851 people because my brother, who died before I was born—and who obviously, being firstborn, was the apple of my mother's eye—but we moved because he died for lack of any medical care. That was a long time ago. But my mother told me many times that she told my father, ''We are moving off this mountaintop. I am not going to live here and watch my babies die, one at a time, for lack of medical care.''

I grew up with that story, so I grew up always trying to improve medical care in my little hometown. Finally, after I went back there to practice law, we were able to obtain one doctor. We built him a clinic. We fed him, we did everything in the world he asked us to do, and then he was killed in a car wreck, and there we were, left without a doctor again. It was only 30 minutes from a hospital, but if you are having a heart attack, that is too long. If you are having a massive heart attack, 30 minutes is too long.

So, as I say, I grew up knowing what it was like not to have any medical care. We seldom had a doctor in our hometown. I can remember—and I have said this on the floor before—that growing up during the Depression was a tough enough time. You know, that is one of the reasons I have always been an unabashed social liberal, and the reason I must say I resent so many people who use the term ''liberal'' as a denigrating term.

I often want to say, what is it about liberalism that you hate? Which one of these programs that are considered liberal—for example, Medicare—would you repeal today? Or REA? Student loans? Or Pell grants? Or the ability to know that you are drinking pure and clean water? Or the ability to know that you are eating food that has been prepared under the most sanitary conditions? The list goes on and on and on and on of those things that were all considered liberal at the time.

But you couldn't get anybody to go back to the poll tax system in the South. And I remember people in my State thought that was the end of the world as we knew it, when people were

allowed to vote free, didn't have to pay a dollar for a poll tax.

Five black women came into my office 2 years ago, each one having been a victim of cancer of the breast. And I sat literally weeping with those five women, some of whom were going to make it and some of whom were not—but who said that they did not go to the doctor when they first felt the lump because they knew the doctor would either turn them down or tell them that they had no medical insurance. What if they did have cancer, they knew they were not going to be cared for. That was in 1996. This is not when I was a child during the Depression. This was 2 years ago. They were there to lobby me on behalf of a program they didn't need to lobby me on. I was already for it.

But here these people were, 50 to 100 miles from Memphis and the finest hospitals in America—and I will not give you the name of the town they came from or where they had been denied health care. All I am saying is a lot of people are denied health care because of race. Others are denied health care because they don't have any insurance—45 million of them. They are not necessarily denied health care simply because they don't have insurance, but oftentimes that is the case.

Just as an aside, not particularly applicable to this debate, I remember every summer when people died of typhoid fever in my hometown because the outhouse was just about 20 steps away from the water well and we did not make the connection. But, you know, another one of those old liberal programs was free vaccinations. When I was in school we got smallpox, typhoid and I forget the other shot. We always got those at the school—free. The county health nurse administered the shots. That is what some people called the good old days. They weren't good old days to me.

Will Rogers once said, ''The good old days ain't what they used to be, and they never was.''

Well, one of the most difficult things I faced as Governor of my State was a highly charged issue of whether or not Lee County, AR, the third poorest county in America, would get an OEO grant. Some of you are old enough to remember the Office of Economic Opportunity, another one of those liberal programs that I remember President Nixon put a man in charge, specifically, to dismantle it. But there was a $1 million grant for a clinic in Lee County, AR, as I said, one of the poorest counties in America. It was designed to provide health care for African Americans who had no place to go, and it became a black/white issue. They got the money if I, as Governor, signed off on it, and they didn't get the money if I didn't sign off on it.

The first thing you know, a little violence broke out and I had to send about 15 to 20 State Troopers into that town for about 4 or 5 days to restore and maintain the peace.

Those were very trying times. That sounds anachronistic today, but that has been a short 27 years ago.

I did something that I knew was right that was very troublesome. I signed the grant and, if you pardon the expression, all hell broke loose in that town. It was the county seat.

To shorten the story, today it is the primary health care center for everybody in that county.

An organization in New York about 2 weeks ago gave that clinic a $50,000 mobile van in order to keep people from coming in all the time. The clinic will take the van around a three-county area. They will let people know when it is coming. They will immunize children and so on. Betty, who is not only ''secretary of peace,'' but also has been very active, she and Mrs. Carter, in immunizing all the children in this country, went down for the presentation of this van to that same clinic that got the $1 million grant 27 years ago. Now, as I say, it is the primary health care center for the entire county, black and white.

I say those things to preface my remarks about this issue. There isn't any question, nor does anybody I know of who opposes the amendment and the bill—there isn't any question about the problem. Certainly the two Senators from Alaska understand these things in Alaska, so far as they are concerned, much better than I do. I understand, being a southerner from a relatively poor State, that a lot of people are deprived of health care for totally different reasons, and that is the reason I prefaced my remarks.

Here we are talking about a 30-mile road which, incidentally, as I understand it, will cost in the vicinity of $25 million to $30 million, and 8 of the 11 miles that go through the national wildlife refuge is through a wilderness area. As the senior Senator from Alaska said, the State of Alaska has some 40 million acres of wilderness areas, so what on Earth are you talking about? Eight miles through a wilderness area? It just sounds like such an infinitesimal problem, who can possibly object? Who especially could object after hearing the two Senators from Alaska describe some of the people who died for lack of medical care.

The problem I have with it is the bill assumes that the road is the only solution. If I believed it was the only solution, I would be a cosponsor of the amendment. But there is another imperative involved in it, and the Senator from Montana, who has performed yeoman service on this amendment today, has already pointed it out. And that is, building a road through wilderness in Alaska, no matter how short or how long, will be the first time in this Nation that we have deliberately authorized building a road through a wilderness area. Once you start down that road, nobody knows where it is going to end.

I can tell you that probably 9 out of 10 people in my State, if you just present it to them as health care for people, they say, ''I don't understand the Government and the wilderness; that wilderness stuff never made much sense to me anyway.''

It makes a lot of sense to me for a simple reason, and I had to come to the U.S. Senate before I really honed my conscience and my awareness of the fact that God just gave us one planet. He didn't say go ahead and throw all the greenhouse gases you can into the atmosphere or chlorofluorocarbons to destroy the ozone layer and I will give you another one after you destroy the ozone layer and after you bring on global warming, with all the disastrous consequences. When you get through mining all the land and leaving all those wonderful environmental disasters, God didn't say, ''I'll give you another one and give you a second chance to see if you can do better next time.''

No, we only get one, and when you do irreversible damage to this planet, you are destroying your children's and your grandchildren's heritage and their future, and you do it mindlessly while standing on the floor of the U.S. Senate talking about education and health care and everything else to indicate how much you love your children. When it gets to something as arcane as building a road through a wilderness, who cares? But when you combine thousands of those little ''who cares?'' projects, the first thing you know, you have done a tremendous amount of damage.

My staff gave me a thick briefing book, and I went through a good portion of it, but I guess I finally have to say the precedent worries me a lot. Once you start this, where do you stop? We have never done it before, and we ought not to start now.

No. 2, there are a lot of alternatives that even the State of Alaska is now studying. The Transportation Department of Alaska is studying what some of the options are to solving this problem, which ones would be the best, most affordable, et cetera. The State of Alaska has taken no position on this, at least that is my understanding.

Why are we not talking about establishing some medical facilities in King Cove? Why are we not talking about the use of Hovercraft? Senator STEVENS got a provision put in the transportation bill for $142 million for new ferries in Alaska, and he got a provision put in the transportation bill to build a causeway to solve the very problem we are talking about here today. I don't know what happened with that. I understand there was some dissension in the ranks over there about the advisability of a causeway. I don't know. That even might be one of the solutions to this.

There is an Indian Health Service in King Cove. We appropriate money every year in the Interior appropriations bill, in 1996 to the tune of $380,000 to that facility. Before we spend $30 million to build a road, why not just put $1 million into the health service

facility? Why not take the $30 million and put it in a trust fund and build a hospital, and then invite doctors up there and pay them $200,000, $300,000 a year to live there? That would be infinitely better than spending $27 million to $30 million on this road, 87 to 94 percent of which Uncle Sugar will pick up the tab.

Mr. MURKOWSKI. I wonder if my friend from Arkansas will yield.

Mr. BUMPERS. I will be glad to yield.

Mr. MURKOWSKI. I wonder if there is any reference in any material, as he suggests, that we are going to spend $20 million or $30 million for a road? I am sure he is aware there is no appropriation requested for any amount.

Mr. BUMPERS. Of course. I understand the road will be built by the State of Alaska.

Mr. MURKOWSKI. I thank the Senator.

Mr. BUMPERS. But I also understand the Federal share of that will be somewhere between 87 and 94 percent.

You think with that kind of money and what you can do—if you just take the Federal share, cut Alaska out, take the 87 percent of whatever it is going to cost to build the road and establish a trust fund. I promise you, you will have doctors, you will have doctors and anybody you want, with the income from such a trust fund.

But getting back to where I was a moment ago, you can improve the medical facilities there. You can consider Hovercraft. Hovercraft is not dependent on fog. You do not have to worry about fog conditions. A Hovercraft is one of the alternatives that the state is studying. Sometimes the waves may be too volatile to use Hovercraft. That is why a combination of various alternatives may be necessary.

There is a man in Alaska named Dr. Peter Mjos who has written a letter. Dr. Mjos apparently is head of the Alaska Native Medical Center in Anchorage. It is a family practice center. He says:

> I've been asked, as the Eastern Aleutian Tribes Medical Director, to comment on the proposed King Cove to Cold Bay road. The primary concern which has been raised is that of safely evacuating individuals with medical emergencies.
>
> Several concerns come to mind. On the surface, so to speak, a road would appear to be the safest and easiest option, however, the safety issue surrounding medi-vacs arises primarily because of the extremely hazardous meteorologic conditions which occur during an emergency. While flying is obviously potentially hazardous—

And listen to this—

> The proposed road in an Aleutian storm or blizzard could be [just] as equally as hazardous when one considers nearly zero visibility, nonexistence of other traffic over a [long] distance of very isolated country, and, of course, the ever-present winter dangers of avalanches.

What Dr. Mjos is saying is that a road is not a 100-percent solution either. There will be times when you will not be able to use the road—a lot of ice, a lot of snow, avalanches in Alaska. He goes on to say:

> Of much greater expediency, then, I would strongly recommend several measures which would first, markedly decrease the number of medi-vacs and second, would probably be more reliable in the event of emergencies necessitating medi-vacs.
>
> Foremost would be the implementation of a state of the art telemedicine system.

My chief of staff here in Washington told me one time about her father when he was a young man suffered a head injury. And they took him to Fort Smith, AR, which was about 50 or 60 miles away. There were no neurosurgeons in Fort Smith, AR, so a family doctor there—or maybe he was a general surgeon; I do not know—they got a doctor in Oklahoma City on the phone, and this surgeon in Fort Smith held the phone up to his ear, and they operated on her father according to the way this neurosurgeon in Oklahoma City was telling him to do it.

Telemedicine is a lot more advanced than that today, but I use that just as an illustration to say sometimes telemedicine works.

> Another option which would circumvent the hazards of avalanches and isolated highway transportation would be that of a state of the art ferry system which could operate in virtually any climatic weather conditions. This would of course obviate a drive on, drive off ferry with adequate protection from unruly seas.

This is from a doctor who is the Eastern Aleutian Tribes Medical Director.

Here is a letter from Myron P. Naneng, Sr., who is President of the Association of Village Council Presidents. He is writing to Chairman DON YOUNG over in the House.

> DEAR CHAIRMAN YOUNG: After careful examination of H.R. 2259—

Essentially the same bill we are debating here—

> the King Cove Health and Safety Act of 1997, the Association of Village Council Presidents, Inc. Waterfowl Conservation Committee would like to request to be put on the record of opposing such legislation. The bill provides for a transfer of land interests in order to facilitate surface transportation between the cities of Cold Bay and King Cove.
>
> Although we empathize with the community of King Cove's difficulty with safe air transportation to Anchorage, we find that the proposed road would seriously interfere in our endeavors to resuscitate our migratory bird populations. . .

And he goes on.

Mr. President, I offer these things simply because the Senator from Alaska is correct. I have never been to Cold Bay or King Cove, either one. But apparently people who live there and who know the situation have been, and they oppose it.

One of the most interesting things I have run across is this. No. 1—the Senator from Montana has already covered this, and at the expense of being repetitious—Penn Air, the primary aircarrier between King Cove and Cold Bay, makes 1,800 one-way flights between King Cove and Cold Bay each year. That is 900 round trips. You divide that by 365, and that is about 2 1/3 round trips a day that Pen Air makes between King Cove and Cold Bay.

Listen to this. Incidentally, three Pen Air flights have resulted in accidents in 20 years. Little Rock, AK, does not have a safety record that compares with that. There were 20 medevacs from King Cove between January 1996 and June 1997. That is roughly a year and a half—20 medevacs. There was a delay for 5 of the 20; and of the 5 that were delayed, 4 of them were delayed by no more than 4 hours; and the 5th was successfully completed the next day.

You hear a lot about 11 fatalities between 1981 and 1997; 11 fatalities in that 16-year period. Six of the fatalities were the result of a plane that was en route from Kodiak that crashed into the mountain.

I am going to tell you, flying around Alaska is no fun, under the best of conditions. When I was in Alaska they kept me scared to death—the bush pilots. We are talking about a 16-year period; 11 fatalities, and 6 of those from a plane that crashed coming from Kodiak, coming from an island the opposite side of King Cove from Cold Bay. A road between King Cove and Cold Bay would not have prevented that.

Another incident where one person was killed—this takes care of 7 of the 11 over a 16-year period—was by a pilot who flew within a complete whiteout condition after being warned not to do it.

Mr. President, I am not sure of the statistics involving who died and how trying to get from King Cove to Cold Bay.

I want to say to my friend from Alaska that after all the studies are done and it is determined that there is nothing else that is even feasible except building this road, then I will rethink my position. I don't blame the two Senators from Alaska for trying to honor the request of the people in their State on this.

One thing that has not been talked about is helicopters. You can buy a regular ambulance helicopter for $4.7 million brand new; you can buy one used for $1.5 million. They can always operate safer, and more often, than fixed-wing aircraft in bad weather. They are used consistently by North Slope Borough Search and Rescue.

I won't belabor this any further except to say we have studies ongoing by the Department of Transportation in Alaska. We ought to at least show them the courtesy of letting them report, and then make up our mind after we have seen a detailed study. We should not precipitously, here on the floor of the Senate, build the first road in a wilderness in the history of the country without at least giving it more than a passing thought.

I would be willing to accept the amendment of the Senator from Alaska and we can just vote up or down on the bill if that is agreeable with him, if it is agreeable with some of my colleagues. I don't know how strongly my

good friend from Massachusetts feels, and I will be happy to yield to him in a moment.

Finally, in my opinion—I have been wrong before in my opinions, but this one is, I think, fairly safe—in my opinion, this bill will be vetoed. I don't know of anything, other than the Republican tax bill, that the President feels more strongly about than this bill. The most current information is that if it were presented to the President, his senior advisers would recommend he veto the bill. This is one of those bills, if you present it, it looks like you are being terribly cruel, until you examine it very carefully and see all of the information. I urge the President to veto the bill. It will be a very tough bill to veto. I don't know whether we can uphold the veto or not. I don't know how many votes we will get here this afternoon. He is absolutely determined to veto this bill.

It is a legitimate thing to talk about, and I hope that the studies will show some alternate method of alleviating the problem other than building a road through the wilderness for the first time.

I yield the Senator from Massachusetts such time as he may consume within the limits I have left. How much time do I have remaining?

The PRESIDING OFFICER. Ninety-two and a half minutes.

Mr. KERRY. Mr. President. I think the arguments have been extraordinarily well covered in the course of the afternoon by the Senator from Montana, the Senator from Arkansas, and also the Senators from Alaska.

I begin my comments by saying that I think this is one of those difficult issues we are called on to come to the floor and debate, argue about, and to decide. I regret that because, in a sense, all of what the Senator from Alaska said is extraordinarily compelling with respect to the plight of the citizens of King Cove. There is nobody here who is not sensitive to the need to provide access to health care and who isn't going to be concerned that guaranteed emergency medical services are available to people who need them. These are not just citizens of Alaska, these are our citizens, too.

I think when we come to the floor of the Senate and make arguments on behalf of all of our citizens in rural areas, which is what we are talking about here. So I hope no one will construe in any way whatever—and I am confident my colleagues have both said this and feel it—the notion that anything we are saying suggests an insensitivity to the plight of the citizens of King Cove. But questions remain: What is the best response to that plight? What is the best way to deal with the effort to provide emergency medical services for people who clearly deserve them? There are, I think, simply rational, practical differences of opinion about how you balance the equities here.

We have a $700,000 appropriation in the Senate Transportation Appropriations bill to the Corps of Engineers to study what options may be available in terms of alternate transportation for rural Alaska. So it is not as if this is an issue being looked at in a vacuum. It is already on the radar screen of the U.S. Congress. We are already trying to find out what different alternatives may be available. But all alternatives have to be weighed against what this bill would represent.

We are talking about the first ever permanent new road construction in a federally-designated wilderness area—the first ever permanent new road construction which will be maintained.

Now, it is true there are other miles of road within this wilderness area, but those were trails that were there before the area got its wilderness designation, and they are not being maintained. They will ultimately some day grow over, except to the degree that hunters and trekkers who may go up there use them, which is not sufficient, probably, to maintain them.

The point we make is that a wilderness area is a wilderness area by definition. When you build a new road, you have taken away the notion of wilderness. The construction process alone is disruptive.

I have heard reference on the floor in this debate to the minimal amount of traffic that may take place. But a road has to be maintained. There is also something illogical in the notion that a road that is being built as an alternative to inclement weather and problems of transportation—isn't Alaska going to present you with inclement problems in terms of road travel? A whiteout is a whiteout. Road and vehicular travel is as much affected by an effort to go through a whiteout and a blizzard as a flight. That raises many questions about other possibilities for this road.

When I look at the sum, the Senator from Alaska suggests this is not going to be a Federal expenditure, but in point of fact, 90 percent of highway expenditures tend to come from the Federal Government even though they go through the State treasury. The fact is, the cost of a road is somewhere in the vicinity of $25 to $30 million. Just put $25 million or $30 million in an interest-free account and take your 10 percent or whatever, and you have $3 million of earnings a year. You could build a mighty fine clinic for 100 people for a tenth of that sum. In fact, you might even pay a young doctor $250,000 a year to sit there for a year if you really wanted to talk about cheaper alternatives, together with telemedicine giving you the capacity to do many things, not to mention the possibility of the Federal Government and other kinds of emergency transportation that could be made available.

I think when you weigh the various options here that are being looked at now, you may in the end, as the Senator from Arkansas has suggested, come to the conclusion that this is the best alternative.

But it seems to me that my colleagues would be well advised and well served to at least wait until the analysis is done in order to measure that against the enormous environmental precedent that is set by authorizing the first-ever permanent, maintained road in a wilderness area.

Let me just speak for a moment about the environmental concerns of running a 30-mile road from King Cove to Cold Bay through the Izembek refuge and wilderness. Created in 1960, it is the Izembek National Wildlife Refuge is an internationally recognized wildlife refuge because it is a major stopover on the Pacific flyway for hundreds of thousands of migrating waterfowl and other migratory birds. For example, the entire North American population of Pacific black brant and most of the world's emperor geese use this isthmus as a crucial resting and feeding ground on their annual flights. These geese stop to feed on this isthmus and once airborne continue 60 hours of consecutive flight until they reach parts of southern California and Mexico, losing one-third of their body weight on the journey. Clearly, the protection of the feeding ground is critical to the health of these amazing birds.

Additionally, wildlife abound throughout the refuge which serves as a key migration route for caribou herds as well as a denning ground for Alaskan brown bear. The proposed road would bisect the refuge's isthmus which narrows to less than three miles at some points. A road through this pristine habitat would be more than harmful to its wildlife.

These are critical concerns. But we don't need to decide this issue today. Not doing that today does not deny any service whatsoever to the citizens of Alaska. I think everybody who stands here asking the Senate to weigh the impact as to precedent of the first-ever maintained new road in a wilderness area against the options that are being studied would have to agree that there is no rationale for rushing to judgment against those options.

So I urge my colleagues, as difficult as I know it is—I certainly agree with the Senator from Arkansas. If the alternative proves that this is the way to go, then the Congress, I am sure, will join in a 100–0 vote to make that happen. I would certainly be one of those to do that. But that is not where we find ourselves yet.

So I urge colleagues to exercise restraint, wait for the results of the analysis, look at the alternatives, and measure that against the precedent of what would happen in terms of wilderness construction in this case.

I yield the floor and reserve the remainder of time for my side.

Mr. MURKOWSKI. Mr. President, how much time remains on this side?

The PRESIDING OFFICER. The Senator from Alaska has 54 minutes.

Mr. MURKOWSKI. Mr. President, for the benefit of my colleagues, let me

point out a few things that are germane to the debate.

The Committee on Natural Resources held hearings on October 15 on the issue of Cold Bay and reported the bill out of the committee. So to suggest that somehow this particular issue has not seen the light of day or committee action is inappropriate.

We have heard in the discussion comments relative to the environmental impact of the road. If my assistant will help me, again I will show you pictures of the roads that are there. These aren't ghost roads, they are real roads. We have shown them to you before. That is the reality. These are the roads that are there. OK. Some of these roads are there and they are in the wilderness.

Here is the map that shows where the roads break off and go into the wilderness, as opposed to those that are not in the wilderness. Few of the Members who have commented really want to reflect on this harsh reality. I will point out the roads in the wilderness that are there today. They are in the dark area here, as you can see with the pointer. This distinguishes the marking line that establishes the wilderness, so it is everything on the top of the picture that is wilderness.

So the point is, there are roads in the wilderness. As we look at the environmental impact of those roads, they are what they are. They are dependent on about 100 people who live in Cold Bay and have access to those roads. Again, there are about 700 people in King Cove. So the impact is pretty small.

Now, there was a mention by my friend from Montana that the reason the migratory waterfowl stopped in this area, you can recognize that it is a flat, tundra-like expanse with no trees. But the Senator from Montana knows the real reason that the black brants stopped there is for the eel grass; that is where the eel grass is, and they come and feed. He is quite correct.

It is a unique day when, sometime in October, mid-October, and the wind currents are right, the brants take off, and their next point of landing is Cabo San Lucas in the Baja peninsula of Mexico. They actually go from this particular point, Izembek Bay, and they lose nearly a third of their body weight. The flight of these geese is really one of the wonders of the world. Hunting season is open by the U.S. Wildlife Service, and people hunt. I hunt, if I am able, with my friends, and we hunt geese. The lives of these geese are dependent on a number of factors. One is a recognition that hunting is allowed. This just isn't a plain wetlands, it is a unique wetlands. But the question is, Is it threatened by this activity? There is no evidence to suggest that it is threatened.

Again, I emphasize this, and I think my friend from Massachusetts, in his comments a few minutes ago, missed the point. We are not talking about a road in the wilderness. He made the point that this would be the first road in the wilderness. This isn't a road in the wilderness, as I have said time and time again on the floor today. This is a land exchange. We are proposing to take the area in exchange by providing about 580 acres of additional wilderness in exchange for about 78 or 87 acres, if you will.

What we are going to do is do a refuge with the exchange. We are going to put this area into a refuge, and then we are going to add to the wilderness the yellow areas, which is a substantial increase of 580 acres. It is a net, net, net gain.

How can anybody who is interested in acquiring more wilderness be against this when there are 580 acres of additional wilderness being offered? We are doing a land exchange and putting the proposed road through the refuge. It is a big difference. We are not setting a precedent. I wish the staffs listening to this would recognize that there is no road going through a wilderness. There is a wilderness exchange. We are putting it in a refuge and it is a net, net increase.

Hovercraft is an interesting mode of transportation. I wish it were a viable alternative. We have had lots of experience with Hovercraft in Alaska. They require a tremendous amount of maintenance. They are very expensive to operate. Mind you, we are talking about, again, 700 people in King Cove—a very small population. Who is going to underwrite the cost of the Hovercraft? You have to have it available year-round, and maintenance, and you have to have operating personnel.

If you have ever been in a Hovercraft—and I have—they are a unique mode of transportation. They skid, because you have a lift from a fan that lifts the vehicle up over whatever it is, whether it is water, ice, or tundra. Then you have another fan that gives you movement ahead. But as you turn, you have no rudders. The Hovercraft has a tendency to skid because there is no rudder, in a sense, that basically digs in and gives immediate direction. You have to be careful when you are moving a Hovercraft and you come up on any cut banks. They will make a corner, but they skid as they go around the corner and you can bang into a cut bank where the edge of the river is and you could find yourself in trouble. It takes a good deal of experience to operate these, and the cost of operation is extremely high.

We have roads all over the United States, and, sure, they cost money. People use them and they facilitate the lifestyle of the people. Somebody said $30 million could build the road. Well, you are pulling that out of some kind of a study, or whatever. These roads that are in these pictures certainly don't cost $30 million a mile. We have estimates that the type of road we are talking about is substantially less—somewhere less than $5 million or $6 million. You are not talking about anything substantial here, as the occupant of the Chair knows. There is no drainage on either side, and they are not ditched.

There is another thing I am confounded about in this debate. They talk about avalanches. I defy anybody looking at this picture to tell me where the avalanche is going to come from. This is tundra. This is where you are talking about putting a road in the refuge. They are not talking about any avalanches in the refuge.

Whether it is refuge, or, as my friend from Massachusetts indicates, wilderness, there are no cliffs. Where is the snow going to hang from to avalanche? There is near King Cove some hilly area, but that is in a different area than we are proposing a land exchange. That is really not part of the argument over whether you are going to have an avalanche potential. And, obviously, you have the potential of avalanches in areas where you have deep snow.

King Cove isn't one of them, I might add. You have them in areas where you have heavy concentrations of snow, like Valdez, and other areas. That is not a legitimate concern. But to lump this in the arguments that we have a wilderness, a bird sanctuary, that we have avalanches and mountains, and we can duck hunt. You don't duck hunt from the mountains. It is a composite of the areas that we are talking about. But the land exchange is just what it is. It is in this tundra area, and you are not subjected, as indicated by the U.S. Fish and Wildlife Service, to any extreme elements such as snow that would be put in their advisory, which they make available to all visitors.

The state-of-the-art ferry we have discussed. Who is going to pay for it? A ferry suggests a crew, and several millions of dollars. We just built a new ferry. What was it, a couple hundred million dollars? Obviously, we are talking about a different type of ferry. It costs a lot of money.

They talk about Penn Air. They do a fine job. We are talking about two trips a day. Do you know how many passengers that airplane carries in two trips a day? It is not a 747. It is not even a DC–3. It is a Piper Navajo. It carries six people. That is what you are looking at. They say, ''Wow. Two trips a day, 1100 in a year.'' That is a six-passenger airplane.

Another thing that I think is important to note as we debate this—and the other side throws figures around—is the Congressional Budget Office has determined that this bill is revenue neutral. The point was made, ''Well, you know. If the State decides to build this road someday, it can use its share of Federal funds that the State receives.'' Who are any of you to criticize what our State determines are its priorities with its share of the Federal funds? The suggestion was made here on the floor a few minutes ago that you shouldn't. If you do, that is on this road in the refuge. That is nobody's business but Alaska's, thank you very much.

We talk about, ''Well, let's put this off a little longer.'' We have been doing

it for 14 years. We have 10 studies. We have a book of them. I don't know.

Mr. President, these aren't very well dusted off. But here are just about eight of the studies over the last 14 years. And some of you recommend that we continue to do what? Do nothing; do studies. I am sure that the people who do these studies are glad to hear that.

There has been some talk about a causeway. What is a causeway, Mr. President? I know the occupant of the Chair knows what it is. It is kind of a road, isn't it? It is an access over an area called a causeway. It carries a road. This was the proposed study by the Corps of Engineers. Somebody suggested that $700,000 is in the bank. Well, I would be willing to make a small wager to any Member that we don't see that money. That $700,000, if it exists at all, in my opinion is pie in the sky at this time.

The point is that while we look at alternatives, we have been looking at them for 14 years. We can look at them again. But the constituents that I have are saying enough is enough. We can study options until the cows come home.

I noted that the Senator from Arkansas indicated that he had a letter from one Myron Naneng who is associated with the Association of Village Council Presidents. What my friend does not know about the AVCP is that their major concern is the spring bird hunt. The Senator from Montana knows. People, for their subsistence, are allowed to take migratory birds in the spring.

What we have here is a little bitterness, if you will, which occurs sometimes between he, I, and others, differences of opinion. This particular AVCP individual has taken it upon himself to express his opinion, which he certainly has every right to do, but his interest is to protect the rights of the village council president to proceed with their spring bird hunts. I have supported that position as a subsistence use.

There is also a criticism. They have a little infighting between the groups. There is a lack of support for a curtailment of the interception of the fisheries issue as far as fall trapping. There is a little dispute between the residents of King Cove and the village council presidents.

So do not take this with a grain of salt, Mr. President, because the more appropriate reference is the attitude of the collective voice of the Native people of Alaska. That is expressed by the Alaska Federation of Natives.

I have a letter here dated April 29 addressed to me.

Dear Chairman MURKOWSKI:

Attached, please find a copy of the 1997 AFN Convention resolution. This resolution is entitled "A Resolution of the Alaska Federation of Natives Supporting the Ability to Obtain Right-of-Way Through National Wildlife Refuges for the Necessity of Improving Health and Safety Issues in Alaska." The Delegates to the 1997 Annual Convention of Alaska Federation of Natives unanimously passed this resolution.

I hope the resolution will assist you in passing legislation involving King Cove for the purposes of obtaining a right-of-way for that community through a land exchange.

That is the voice of the Native people of Alaska.

Mr. President, I ask unanimous consent that the letter be printed in the RECORD, and the accompanying resolution that passed at the convention.

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

ALASKA FEDERATION OF NATIVES, INC.,
Anchorage, AK, April 29, 1998.

Re S. 1092.

Hon. FRANK MURKOWSKI,
Chair, U.S. Senate Energy and Natural Resources Committee, U.S. Senate, Washington, DC.

DEAR CHAIRMAN MURKOWSKI: Attached, please find a copy of 1997 AFN Convention Resolution 97–34 (hereafter "97–34"). This resolution is entitled "A Resolution of the Alaska Federation of Natives Supporting the Ability to Obtain Right-of-Way Through National Wildlife Refuges for the Necessity of Improving Health and Safety Issues in Alaska." The delegates to the 1997 Annual Convention of the Alaska Federation of Natives (AFN) unanimously passed this resolution.

97–34 states that the delegates to 1997 AFN Convention support obtaining right-of-ways through national wildlife refuges, including right-of-ways obtained through land exchanges.

I hope this resolution will assist you in passing legislation involving King Cove for the purposes of obtaining a right-of-way for that community through a land exchange.

If you have any questions concerning this letter or the attachment, please call me at AFN.

Sincerely,

JULIE KITKA,
President.

ALASKA FEDERATION OF NATIVES, INC., 1997 ANNUAL CONVENTION, RESOLUTION 97–34, A RESOLUTION OF THE ALASKA FEDERATION OF NATIVES SUPPORTING THE ABILITY TO OBTAIN RIGHT-OF-WAY THROUGH NATIONAL WILDLIFE REFUGES FOR THE NECESSITY OF IMPROVING HEALTH AND SAFETY ISSUES IN ALASKA

Whereas much of the access to and between rural Alaska villages is either by plane; and

Whereas the weather conditions are frequently inclement and flying is often a life or death situation; and

Whereas there have been numerous incidents of fatalities due to trying to fly in bad weather or treacherous terrain; in one community alone there have been 11 fatalities since 1981; and

Whereas most right-of-ways can be obtained through a land exchange with the affected village or regional corporations; and

Whereas the lands that are offered in exchange for the right-of-way are desirous to the National Wildlife Refuge managers; and

Whereas there is a legislation pending in Congress that dedicates right-of-ways through National Wildlife Refuges: Now, therefore be it

Resolved, that the delegates to the 1997. Annual Convention of the Alaska Federation of Natives, Inc., support the ability to obtain right-of-ways through National Wildlife Refuges for Health and Safety reasons.

Sponsored by: The Aleut Corporation.
Committee action: dos pass.
Convention action: passed.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the Alaska Native Brotherhood. In that particular letter, it says:

The Juneau Camp of the Alaska Native Brotherhood supports the Alaska Congressional Delegation effort to connect King Salmon and Cold Bay.

Please accept our appreciation for your efforts. This may save a life, while responding to sensitive issues.

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

ALASKA NATIVE BROTHERHOOD,
CAMP NO. 2,
Juneau, AK, June 24, 1998.

Hon. FRANK MURKOWSKI,
U.S. Senate,
Washington, DC.

DEAR SENATOR MURKOWSKI: The Juneau Camp of the Alaska Native Brotherhood supports the Alaska Congressional Delegation effort to connect King Salmon and Cold Bay. We do have occasion to meet with Alaska Native organizations on subsistence issues and subsistence management. There are discussions of local interest matters, such as fish and wildlife habitat and access to interest areas. Persons of these areas have contacted us on this matter.

The Juneau ANB supports funding for the Izembek Road that would provide safe access from Cold Bay to the King Salmon areas. It is our understanding that wildlife habitat areas would not be adversely affected, and that the Local Natives do attend to habitat areas anyway.

Please accept our appreciation for your efforts. This may save a life, while responding to sensitive issues.

Respectfully,

JEFFREY ANDERSON,
President.

Mr. MURKOWSKI. Mr. President, I also ask unanimous consent that a petition that was signed by approximately 50 residents of Cold Bay expressing their support for the exchange be printed in the RECORD.

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

As residents of Cold Bay, Alaska, we support the proposed road between our community and King Cove. Furthermore, we recognize the existence of roads in the wilderness area and drive these roads, along with nonresidents who fly into Cold Bay, for access to hunting grounds.

Mr. MURKOWSKI. Mr. President, I further ask unanimous consent that a listing from the King Cove Clinic from April 1998 to present day covering medevacs be printed in the RECORD.

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

KING COVE CLINIC MEDIVACS FROM APRIL 1998 TO PRESENT DAY

April 3: Chest Pain, Airplane, 2 hr. delay;
April 14: Chest Pain, Airplane, ½ hr. delay;
May 5: Abdominal Pain, Airplane, 1 hr. delay;
May 11: Chest Pain, Airplane, No delay;
May 31: Chest Pain, Airplane, No delay;
June 19: Abdominal Pain, Airplane, No delay;
June 24: Abdominal Pain, Airplane, No delay;
June 26: Chest Pain, Airplane, No delay;
June 27: Baby Fever of Unknown Origin, Airplane, No delay;
July 5: Possible Tendon Laceration, Airplane, 1 day delay;

July 6: Chest Pain, Airplane, 3 hr. delay;
July 28: Abdominal Pain, Helicopter, 1 day delay;
July 28: Abdominal Pain, Helicopter, 1 day delay;
August 9: Miscarriage, Airplane, No delay; and
August 28: Pneumonia, Airplane, 1 hr. delay.

Mr. MURKOWSKI. I thank the Chair.

I might add that from April 3rd to August 28th, there were 16 specific medevacs. The first one on April 3rd, there was a 2-hour delay; 14th, 1-hour delay; May 5, an hour delay; no delays in the two in May; there were no delays in June; on July 5, there was a 1-day delay. Not an hour, Mr. President, a 1-day delay; July 8, 3-hour delay; July 28, 1-day delay; July 28, 1-day delay; August 9, a miscarriage, no delay; August 20, pneumonia, 1-day delay.

These are the official records that indicate what is really happening. The only difference is this is summertime. This is the good weather.

Try it on October, November, December, or January.

To give you some idea, this is from the National Weather Service, Marine Desk, lower south side Alaska peninsula, including waters near Cold Bay and King Cove. On the following days in March, small craft advisory warnings; winds between 25 and 34 knots were issued, not only on the 7th, 8th, 11th, 13th, 17th, 19th, 20th, and 21st, but on the following days in March of the same year, gale warnings of 35 to 50 knots were issued on the 2nd, 3rd, 4th, 5th, 6th, 12th, 15th, 16th, 22nd, 25th, 26th, 31st.

There is more air around there than there certainly is around here.

And the following days in March wind advisories greater than 50 knots were issued, on the 23d, 24th, 27th, 28th, 29th, and 30th. Only 5 days during the month were there no marine advisories in this area. That is what we are talking about in Cold Bay and King Cove. It is not just once in a while.

Now, what is hypocrisy? Well, let's try this on for consideration. It might be the Clinton administration and the Washington green lobby opposing a small, one-lane gravel road in an Alaska wildlife refuge to allow a few Aleut Native people to reach emergency medical care while at the same time allowing an international airport to expand a runway—a runway, Mr. President—into a wildlife refuge which is the home to endangered species and provides essential habitat for waterfowl and migratory birds. Where is the Senator from Arkansas? Where is the Senator from Montana? Where is the Senator from Massachusetts? Where is the righteousness as to what is happening?

Well, I see a look of concern. On September 21, 1998, the U.S. Fish and Wildlife Service announced that they had reached an agreement with the Metropolitan Airport Commission to allow a new runway at the Minneapolis-St. Paul International Airport which would severely impact the Minnesota Valley National Wildlife Refuge in Bloomington, MN. The Minnesota Valley National Wildlife Refuge currently consists of 9,429 acres of land. This agreement will require the replacement of 4,000 acres of refuge land which will be impacted by what? Well, let's try aircraft noise. I quote. Here it comes, gentlemen.

''We would have preferred to keep our refuge and our programs intact,'' says Rich Schultz, refuge manager. ''But we certainly recognize the need for safe, reliable air transportation so I am glad we were able to come to an agreement at least in principle. It will take a lot of effort to relocate our facility's programs, but this should be done to allow us to provide additional opportunities for our growing Metro population.''

Well, what is hypocrisy, Mr. President? Perhaps there is no comparison between the minimal potential impact on wildlife from a small gravel road with an occasional—an occasional—car passing in a 300,000 acre wildlife refuge in an area that is excluded from the wilderness and the hundreds of jets—hundreds? Come on, let's talk about thousands of jets—taking off each week from an international airport over a smaller, 9,000 acre refuge in Minnesota.

Well, we have heard the Senator from Arkansas say the President is going to veto this. We have heard that before. Well, charity starts at home, Mr. President. The Clinton administration has made a purely political decision, and I think it is a cruel one at that. It takes into consideration not the people of King Cove or their dreams of access. It would deny medical care for Alaska Natives while giving the population of Minneapolis a jetway with enormous impacts on the environment with regard to noise and air pollution.

Well, I guess that is the way it goes around here. But nevertheless, I think everyone would recognize there is certainly an injustice. Imagine that. The excuse is the refuge manager recognizes the need for safe, reliable transportation. But here again we are proceeding to allow a new runway that would impact on the Minnesota Valley National Wildlife Refuge in Bloomington, MN, consisting of 9,429 acres of land and the agreement will require the replacement of 4,000 acres of refuge land.

So there we have it, Mr. President. What is good for the goose is good for the gander, somebody once said. Now, I don't know if there is a value, commercial value in expanding that runway, but I would let the example speak for itself.

There are a couple more things I want to say in conclusion. Staff did a good job of preparing to respond to some of the statements that have been made in the debate, and I would be remiss not to address them at this time. We have done a little research here, and I hope that our comments are an accurate reflection because they are taken from the RECORD.

Back on Tuesday, September 29, the statement by the Senator from Montana states:

Mr. President, the rider establishes a very troubling precedent. Congress has never authorized the construction of a road through a wilderness area.

The fact is the proposal does not authorize construction of a road through a wilderness. I think I made that point time and time again. The language authorizes a boundary adjustment which Congress routinely has used to provide access through wilderness areas, most notably, the Lee Metcalf Act of 1983, which withdrew several acres in Montana for a road to a fishing hole. I know my colleague already addressed that.

Later the Senator from Montana said:

The bill would cut the refuge in half.

Well, the refuge is 300,000 acres. The proposed road corridor skirts the very edge of the refuge impacting only less than 0.3 percent of the refuge land. The proposed road corridor is 3 miles south, south mind you, of the Izembek lagoon complex and is separated by 3 miles of terrain. The reason you move it back is an obvious one. You want to get away from the immediate tidal wetlands area and put it in a little higher area of elevation.

Further, the Senator from Montana indicated:

Mr. President, this is a road that now exists in part of the wilderness area. This is what is there now. This is what would be contemplated. As you can tell, it is a pretty good size road. It is no small, little cow path.

And that was the picture the Senator had. The facts are the road would be, well, not more than 60 feet wide taking up only 85 acres through 7 miles of the refuge. In return, the Natives would return 664 acres—664 acres of privately owned lands to the refuge. The road would be constructed of gravel, like many of the U.S. Fish and Wildlife roads that are already present in the refuge. So I think that is a factual rebuttal.

And if I may continue. Furthermore, on September 29, the Senator from Montana indicated:

There are many ways to address the legitimate transportation problems at King Cove without violating the Izembek refuge: Coast Guard air evacuation is one; better port facilities and special marine ambulances are another; as well as telemedicine and other medical advances.

We have been studying it for 14 years. The fact is the Coast Guard does not, will not, and cannot handle the dangerous conditions associated with the numerous land-based evacuations. It is a policy matter. To do so would put lives at risk and would fundamentally alter the Coast Guard's mission, which is a sea mission. You have 20-foot seas, and 50-knot winds are not uncommon in the area. Portions of Cold Bay can freeze in the winter. Telemedicine, of course, as we have heard from Senator FRIST, while of benefit, will not reattach limbs and certainly cannot alter the care of premature births.

There was a reference further by the Senator from Montana:

The fact of the matter is when you look a lot deeper into this, the real impetus behind

the road may not be emergency medical evacuation. That is not the real driving force here. Really, it is that the folks there have an economic interest in having a road.

Mr. President, this road is about saving lives. The economics is not part of the equation. Marine transportation is the manner in which the products in cold storage, in the canning operation, in fish processing, move. They move traditionally that way because the value of the product simply does not support moving it by air, and anybody in the business will tell you so, including the residents there.

But last, no one on the other side has addressed this: We provide the authority for the Secretary of the Interior to close the road for nonemergency use. What more could we do? If he sees this road is being inappropriately used, he can close it, he can limit it—whatever. This is about lives.

What has happened here is extremely unfortunate. The leaders in the environmental community, some of whom may be listening—I hope they are—somehow have decided to dig in on this. ''Break your pick on this one. This is the issue.''

It is the issue at whose expense? The Aleut people in King Cove. They are too far away to be heard from. It is too expensive to go out and see them. So we will just stand on this one. Let me tell you what our health care providers say when they speak up, and these are people who are treating people in rural Alaska. It is an issue of access. It is an issue of life. There it is. I quote:

The greatest limiting factor to air ambulance is weather and the condition of the airport [at King Cove]. Being able to use the Cold Bay facility will enhance our ability to get in and continue care of patients . . . if the road saves one life, it's worth it.

This is from Dean C. Dow, MICP, Lifeflight Emergency Evacuation Service, Alaska Regional Hospital, Anchorage.

They are out there, taking care of the people who use the medivac.

The next one:

Distance between communities in Alaska dwarfs many states in the Lower 48 and telecommunications are often sketchy. A wise person once said, ''If a successful fax transmission is a blessing, then successful telemedicine transmissions could be a miracle . . . the telehealth system will not carry a human body that needs advanced medical care . . . it will only enhance medical care. It will not remove the need for treacherous evacuations that so often take place from King Cove.''

Kathy Boucha-Roberts, director of alliances and telemedicine, Providence Health System, Anchorage.

Next one:

All we want is safe access for our people. We see the road as our only hope.

Della Trumble, King Cove Native Corporation:

The King Cove Medical Clinic (a small, four-room building) [that is all they have] is forced to take drastic measures and lose critical time in attempting to complete a medivac—travel by boat in dangerous sea conditions . . . a road between King Cove and Cold Bay would bring us to our Medivac flight and into the 20th Century in emergency response.

Let's see the picture. This is the facility at King Cove. It has the Red Cross on it. That is it. If you get your leg broken, have a baby—whatever—that is all you have. It is a lot better than nothing. But when you are in need of something—look at cloud cover here. You might see that in the picture. This is a good day in King Cove, believe me.

The last one:

Inclement weather severely impacts prompt medical air evacuations. Medivac by fishing vessel is directly affected by wind, ice and poor visibility, making offloading the patient on a dock extremely stressful and hazardous . . . the King Cove Rescue Squad believes that the road to Cold Bay is a necessary alternative to existing air and boat medivac.

Marilyn Mack, emergency medical technician, King Cove.

Mind you, this is an effort by 700 people, a very small village, to be heard in the Congress of the United States. Let us see what our Members have said about access to health care. Some have said access to health care is a right. I agree.

It is absolutely essential that Montanans have access to quality health care without having to cover massive distances. Sometimes getting to a hospital can be the difference between life and death.

That is my good friend, the Senator from Montana.

We have the best health care in the world in many respects, but it is available to people only if they are able to access the kind of doctors they need . . . people ought to be able to seek emergency room care if they need emergency room care.

That is my friend, Senator DORGAN. I agree.

Denying our citizens an opportunity to participate in the greatest advances that are taking place in the medical profession is effectively a death sentence . . . it is really an issue of lifesaving protections.

Senator TED KENNEDY, Massachusetts.

We must ensure that quality health care is there for people when they need it . . . we must protect patients from decisions made by accountants and bureaucrats in insurance companies and have their health care decisions made by physicians.

Senator BARBARA BOXER.

Patients should have access to health care professionals who are qualified to treat their conditions and not forced to accept people without the proper professional credentials . . . if a doctor believes a certain treatment is necessary, as a matter of right, that doctor's judgment should prevail.

Senator ROBERT TORRICELLI, New Jersey.

That is what some of our colleagues are saying about the right to have access to health care. That is what I am saying, what our senior Senator is saying—the right to have access, the best access, the most practical access. It is the access that would be brought about by this exchange which we are proposing, an exchange in the wilderness for an additional area of wilderness of about 580 acres.

Mr. President, I inquire of the time remaining on both sides.

The PRESIDING OFFICER. The Senator from Alaska has 19 minutes 18 seconds; 85 minutes 11 seconds for the other side.

Mr. MURKOWSKI. I retain the remainder of my time. I am not sure what the leadership has in mind. It is my understanding there might be an opportunity for a vote around 5 o'clock. If that is likely to occur, it is almost 5 o'clock.

I think there is a special briefing going on at this time.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, this has been a good debate. A lot of facts have come out. I might just note parenthetically, I chuckled a little bit. Here we are at the late stages of this debate. I concede to the Senator he has won the chart war. I have never seen so many charts in a debate in all my life. I acknowledge to the Senator he has a lot more charts than I have, and they are pretty good charts.

Also, he has all that staff there. I see the army—there are about 10 back there on his side. He has won the staff war. We have only a couple or three on our side. He has won the chart war. He has won the staff war. And he has also won the time war. He has used a lot more time than we have. I will be very brief.

Basically, there are a couple of points I want to make for the Record, for the Senator. He asked, very interestingly: Nobody has answered the point that the Secretary of the Interior, the refuge manager, basically controls this road.

The fact is, in the bill itself there are provisions that the refuge manager—that is, the Secretary of the Interior—works with—I think it is the Aleutian Boroughs—to try to come up with a Joint Plan for the operation of the road. But the bill further provides, if no agreement is reached, that the borough controls. The borough can just decide within 24 months that that is what it wants to do.

So it is not quite accurate to say this road is under the control of the Department of the Interior. The fact is, as a practical matter, maybe earlier, but certainly within 24 months, this road is under the control—if there is a road—of the State.

The second point: The State of Alaska is not for this road. The State of Alaska takes no position on this road. We do not have any correspondence from the State of Alaska, particularly from the Transportation Department of the State of Alaska, saying we want this road, we support this bill. There is nothing that says, ''We support this bill.'' Rather, the State department takes no position.

Let me just read what the Transportation Department of Alaska says: ''You have inquired about the status of our study efforts, etc.'' I will not read the whole letter.

Basically, the letter concludes on page 2:

Until the Transportation Needs Assessment and the Facilities Concept Report have been completed, we will not be in a position to propose the preferred alternative nor will we know how the King Cove-Cold Bay project is rated against other transportation projects. Therefore we have no position on the legislation currently pending in Congress.

I think that is because that is a sound conclusion. That is why the State of Alaska, at least the department of transportation, takes that position because it makes sense. There is the basic study that is going on. It is an Alaska study. My good friend from Alaska says, ''Gee, we have enough studies here.'' My answer is, light a fire under the State; get them to conclude the study.

Mr. MURKOWSKI. I wonder if the Senator——

Mr. BAUCUS. When I finish I will. Let them conclude the study so the State can recommend what alternative makes the most sense.

He also said, ''I don't know where the $700,000 is.'' It is in the transportation appropriations bill right now. It passed the Senate. The language is there.

I don't want to get in tit-for-tat business. It is not productive. He made the statement implying maybe this Senator has no idea about bottom fishing in Alaska and what the economics are.

I am actually getting my view—it is not my view, but I am reporting what the Alaska Intermodal Transportation Plan says. It has a statement on page 13 of its plan. This is dated October of 1994. I grant it is a few years old.

Essentially, it says King Cove's economy is almost exclusively dependent upon fishing and fish processing. It has been a major fishing center in southwest Alaska for over 75 years. The salmon cannery has operated since 1911; crab processing since 1958; fish roe processing since 1960. In the seventies and eighties, the bottom fishing industry expanded. Peter Pan Seafoods is the largest employer, employing 250 to 300 persons in its cannery operation in King Cove. Commercial fishing accounts for approximately 100 jobs.

It goes on to say that because of limited access, today the seafood market in King Cove is restricted. I am reporting from the Alaska report. It further provides that most product is sold directly to Peter Pan. Peter Pan now moves some fresh fish—fresh fish—into niche markets they have identified with low volumes. Without alternatives, commercial fishermen must settle for the going rate of about 35 cents to 40 cents a pound.

It goes on to say it is estimated that with better access—that is most probably the road to Cold Bay—to fresh fish markets, the same fish could be sold at a price of upwards of 70 to 80 cents a pound, nearly double what fishermen now receive.

It goes on to say essentially that this access would provide for a lot more fresh fish access in addition to the frozen. Basically, 5 percent of their processing production, which would be close to 2 million pounds a year, will be moved by road to an airport to fly directly to fresh fish markets.

I am just answering the Senator by saying this is what the State of Alaska says. I take the Alaska Intermodal Transportation Plan at its word, but if they are incorrect, then I stand to be corrected.

The point about whether this cuts into a wilderness area or not, it is pretty clear that this road we are talking about does. By the way, when the Senator showed a picture of the tundra, he said, ''Oh, there are no avalanches here.'' What he was not showing is sections of the road down here which bisects streams and mountain areas, that is where the avalanches would occur. They would not occur up closer to Cold Bay. But this road does cut this wilderness in half.

This is the whole area, basically, we are talking about, where the waterfowl feed. This is the road that would go up here and down back around to Cold Bay. With truck traffic from the processing plant and the other traffic on the road, it is pretty clear it would bisect the area.

It is constructing a new road in a wilderness. The Senator says that is not true. I think it is true, and I will let people decide for themselves whether it is true or not. I say it is true because here is the wilderness right now and there is the road. It looks like to me there is a road in the wilderness area.

The response is, ''We will just take that out of wilderness and put the road there, and because we take the wilderness away, it is not a road in wilderness.'' That is too clever by half, Mr. President. We know what is going on here. It is a road in the wilderness. We have never done that. We have not constructed a road through wilderness from one point outside wilderness to another point outside wilderness. We have never done that; never.

I recognize that we may have to do that. If the only option to provide medical care and emergency services is a road, but we don't know that yet. There are a lot of options being studied. I say let's let the State of Alaska complete its study, or the $700,000 the senior Senator from Alaska put in the appropriations bill to study rural access, then we will see. If it turns out we have to have this road, I will be one of the first Senators to stand on this floor and reconsider my position, but we are not there yet. I don't think we should take precipitous action today and prejudge by saying we have to build this road.

Finally, on another point, the President will veto this bill if it passes. I hope it doesn't pass, but if it does pass, he will veto it.

I ask unanimous consent that a statement of administration policy be printed in the RECORD.

I will read the first sentence:

The Administration strongly opposes S. 1092, and, if presented to the President, his senior advisers would recommend that he veto the bill.

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

STATEMENT OF ADMINISTRATION POLICY

(This statement has been coordinated by OMB with the concerned agencies.)

The Administration strongly opposes S. 1092, as amended, if presented to the President, his senior advisers would recommend that he veto the bill.

S. 1092 would create an objectionable and unprecedented perpetual right-of-way through portions of the Izembek National Wildlife Refuge and Izembek Wilderness for building a public road and maintaining utility-related fixtures between the communities of King Cove and Cold Bay in Alaska. Specifically, S. 1092 would set a precedent by removing lands from wilderness in a land exchange to build a new road. S. 1092 is not compatible with the purposes for which the Refuge was established and would waive important environmental laws. As a result, S. 1092 would disrupt the habitat of many important species, including internationally-unique waterfowl populations and cause irreparable damage to the ecological integrity of this pristine wilderness area. Finally, the bill would undermine the intent of the recently enacted bipartisan ''National Wildlife Refuge System Improvement Act of 1997.''

The Administration recognizes the need to ensure adequate emergency medical care for the remote community of King Cove. The Administration will continue working with the State of Alaska and other interested parties to explore different transportation alternatives.

Mr. BAUCUS. In summation, I thank the Senator for the debate. It has been a good debate. We have been here, what, almost 5 hours. The Senator from Arkansas, the Senator from Massachusetts, the Senator from Tennessee, both Senators from Alaska have argued this issue. I thank the Senator, again, for taking this issue up on the floor and not as a rider on the appropriations bill. That is the better way to make public policy.

Mr. President, I don't think there are any more speakers on our side. We are ready to accept the amendment and at the appropriate time vote on the bill.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER (Mr. BENNETT). The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, we are still waiting on this side for an indication from the leadership about disposition of this. My understanding is we can anticipate a vote very shortly, but I have to defer, pending clarification.

In the meantime, I want to clarify the RECORD. The Senator from Montana suggested that the State of Alaska does not support this road. Let me read a statement from the Anchorage Daily News, Wednesday, June 7, 1995. It reads as follows:

Knowles—

Who is our Governor—

Says he favors a road to Whittier, a 16-mile link between Nondalton and Itulilik, and a 20-mile road between King Cove and Cold Bay on the Alaskan Peninsula.

That was the Anchorage Daily News, Wednesday, June 7, 1995.

Relative to another matter that was brought up by my friend on the assessment of transportation needs by the

Alaska Department of Transportation, let me read a synopsis, and that is:

Based on a comparison with other alternatives, the road alternative provides a positive benefit stream throughout the life of the project with total benefits exceeding total costs by more than $242 million through the year 2018.

I am not going to dwell on that because some of these projections are really little more than a hypothetical wish list, whether it be on the issue of whatever the economic value of the fish products are or whatever. But I think it is fair to say the people who put intermodal transportation analysis together do so based on a lot of longitude and latitude relative to realities associated with the market ability associated with what the economics basically have to support.

I would again defer to something that I brought up time and time again, and that is the fact—this is what I find rather amusing about the attitude of the administration and its veto threat. They are not even giving credence to the Secretary of the Interior and the flexibility that we have given him to address this road should it have any detrimental impact on any of the migratory wildlife or initiating any other activity that would be detrimental.

This has not been addressed by the opponents. It is not being addressed by the administration. They have come up with a flat veto. I would like to think that my colleagues would not be moved or motivated by a disinterested administration that does not address the concern associated with what this road means, and it really means a road to life for a very, very small exchange—an exchange not in the wilderness but, indeed, a land exchange in refuge and a net benefit to the wilderness of some 580 acres.

What you have here, Mr. President, is you have gotten a battened down environmental group that is dug in—the Audubon Society, and various others, pulling out all stops to overcome the 730 residents of King Cove on an issue that means perhaps that they will lose face if they lose this vote.

I would like to think that the 100 individuals here are individuals, they think for themselves, they are not motivated by a rush associated with a herd mentality and will address this issue on its merits.

The merits are very simple, Mr. President. This is a road to life for the residents of King Cove. I would appreciate all my colleagues to recognize the issue on its merits and not be threatened by any veto threats from the administration, none of which have to put up with the rigors of living in a wilderness area, such as those residents who live in King Cove.

Mr. President, let me thank the Senator from Montana, the Senator from Arkansas, the Senator from Massachusetts for the debate, my senior Senator, Senator STEVENS, and the Senator from Tennessee who shared with us his expertise on telemedicine, Senator FRIST.

Again, as we look at the alternatives, recognize we have been looking at alternatives for 14 years. This is time for action. The action that we contemplate is a simple land exchange giving the Secretary of the Interior the oversight authority. I cannot imagine anything that is more fair and provides a balance than what we have proposed. I ask my colleagues to support the amendment that I have as well as to vote in favor of the bill.

I have been asked by the leadership to suggest the absence of a quorum. I suggest the absence of a quorum.

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

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Is there objection?

Mr. MURKOWSKI. Mr. President, may I just ask the Senator to withhold for a moment?

The PRESIDING OFFICER. Does the Senator from Alaska object?

Mr. MURKOWSKI. I object, if I may, for just a moment.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk continued to call the roll.

Mr. MURKOWSKI. 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. MURKOWSKI. Mr. President, I am told there are other Senators still wishing to speak on the bill, so I ask, how much time is remaining?

The PRESIDING OFFICER. The Senator from Alaska has 12 minutes remaining.

Mr. MURKOWSKI. The other side?

The PRESIDING OFFICER. The Senator from Arkansas has 74 minutes.

Mr. BUMPERS. Seventy-four minutes?

The PRESIDING OFFICER. Seventy-four minutes.

Mr. MURKOWSKI. I thank the Chair.

I ask unanimous consent to reserve the remainder of my time.

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

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. I yield the Senator from Massachusetts 30 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I appreciate the courtesy of the Senator from Arkansas. And I ask unanimous consent that my comments be placed in the RECORD not to interfere with the debate that has been taking place and will take place further this evening on this important issue. And I will address the Senate on a different issue in question.

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

Mr. KENNEDY. Mr. President, it is time now, as we reach the midpart of this week, and as we are looking forward to going into next week for the probably 6 days that remain in this session—maybe 7 days, maybe even a few more days, if necessary—we are running into the final days of this particular session. It does seem to me to suggest that we ought to spend our time addressing those matters which are of central importance and consequence and seriousness to the American people.

I know on the issue that is before the Senate at the present time that this will be disposed of either later this evening—and I will not interfere should the managers themselves want to have the final disposition of that this evening—but I have understood that the final disposition on this particular proposal would probably carry over to tomorrow.

So I wanted to address the Senate on another issue.

Mr. STEVENS. Will the Senator yield on that point?

Mr. KENNEDY. I yield without losing my right to the floor.

Mr. STEVENS. Mr. President, did the Senator indicate he thought this issue would carry over until tomorrow—this issue?

Mr. KENNEDY. I am not either the manager nor the proponent of that, but I understand I do have the 30 minutes.

Mr. STEVENS. Yes.

Mr. KENNEDY. What I was saying is that I indicated that if both those for it or against it wanted to move ahead with the vote, that I would not interfere with that. But I am told at this time that that is not the case, I say to the Senator.

Mr. STEVENS. I yield to my colleague from Alaska. We do want to go ahead with this vote on the matter tonight, if possible.

Mr. KENNEDY. I thank the Senator, but I——

Mr. MURKOWSKI. Mr. President, if I may offer a clarification. When the unanimous consent was agreed upon, I was under the impression the Senator from Massachusetts was going to speak on the bill. I have no objection to the time being granted, but we had hoped to have a vote around 5 o'clock.

As far as we are concerned, we are ready for the vote. So it is the floor manager on the other side who controls the time. I tell Senator KENNEDY, if he would like to go ahead and allow us to vote, then he could have time after the vote.

Mr. KENNEDY. Mr. President, I was yielded this time. I understand you are ready and the others are not.

Mr. MURKOWSKI. Mr. President, I don't want to confound this any further, but I think I was of the impression and I think the Senator from Montana was of the impression that the Senator from Massachusetts was going to rise to speak on the King Cove matter. Am I correct that is the Senator's understanding?

Mr. BAUCUS. Mr. President, if I might.

Mr. KENNEDY. I will be glad to yield briefly, Mr. President.

Mr. BAUCUS. If I might respond to the Senator from Alaska, we do have more time required on our side in the sense that we are not ready for a vote for about a half hour or later. If that is the case, it probably makes sense for the Senator from Massachusetts to proceed.

Mr. KENNEDY. I thank the Senator. I tried to have an opportunity to address the Senate through the course of the afternoon and appreciated the courtesies of our colleagues for that time.

How much time do I have remaining on this?

The PRESIDING OFFICER (Ms. SNOWE). The Senator has 26 minutes remaining.

(By unanimous consent, the remarks of Mr. KENNEDY and Mr. DURBIN are printed later in today's RECORD under ''Morning Business.'')

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. Madam President, I am prepared to yield back the remainder of my time if the Senator from Alaska is also.

Mr. MURKOWSKI. Madam President, I yield the remainder of my time, and I ask on behalf of the leader unanimous consent that all time be considered as yielded back.

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

Mr. MURKOWSKI. And the Senate proceed to vote on the passage of S. 1092, the King Cove/Cold Bay legislation.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Madam President, if the Senator from Alaska is prepared, we are prepared to accept his amendment which is the pending business.

The PRESIDING OFFICER. If there is no objection, amendment No. 3676 is agreed to.

The amendment (No. 3676) was agreed to.

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

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

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

The PRESIDING OFFICER. Is there a sufficient second?

It appears to be sufficiently seconded.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from New Hampshire (Mr. GREGG) is necessarily absent.

Mr. FORD. I announce that the Senator from Ohio (Mr. GLENN) and the Senator from Illinois (Ms. MOSELEY-BRAUN) are necessarily absent.

I further announce that, if present and voting, the Senator from Illinois (Ms. MOSELEY-BRAUN) would vote ''no.''

The result was announced—yeas 59, nays 38, as follows:

[Rollcall Vote No. 294 Leg.]

YEAS—59

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

NAYS—38

Abraham	Feinstein	Mikulski
Baucus	Graham	Moynihan
Biden	Harkin	Murray
Boxer	Jeffords	Reed
Bryan	Johnson	Reid
Bumpers	Kennedy	Robb
Cleland	Kerrey	Rockefeller
Conrad	Kerry	Sarbanes
Daschle	Kohl	Specter
Dodd	Lautenberg	Torricelli
Dorgan	Leahy	Wellstone
Durbin	Levin	Wyden
Feingold	Lieberman	

NOT VOTING—3

Glenn	Gregg	Moseley-Braun

The bill (S. 1092), as amended, was passed, as follows:

S. 1092

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 ''King Cove Health and Safety Act of 1998''.

SEC. 2. FINDINGS.

The Congress finds that—

(1) King Cove, Alaska is a community in the westernmost region of the Alaska Peninsula with a population of roughly 800 full-time residents and an additional 400 to 600 workers who are transported in and out of the community a number of times a year to work in the local fish processing plant and on fishing vessels;

(2) the majority of the full-time residents are indigenous Native peoples of Aleut ancestry that have resided in the region for over 5,000 years;

(3) the only mode of access to or from King Cove is via small aircraft or fishing boat, and the weather patterns are so severe and unpredictable that King Cove is one of the worst places in all of the United States to access by either of these modes of transportation;

(4) the State of Alaska has initiated the King Cove to Cold Bay Transportation Improvement Assessment to confirm the need for transportation improvements for King Cove and to identify alternative methods of improving transportation access with comprehensive environmental and economic review of each alternative;

(5) the State of Alaska has identified a road between King Cove and Cold Bay as one of the alternatives to be evaluated in the transportation planning process but for a road to be a viable option for the State of Alaska, the Congress must grant a legislative easement within the Izembek National Wildlife Refuge (''Refuge'') across approximately seven miles of wilderness land owned by the Federal Government;

(6) there are fourteen miles of roads within the wilderness boundary of the Refuge which are currently traveled by vehicles;

(7) any road constructed in accordance with such easement would be an unpaved, one-lane road sufficient in width to satisfy State law; and

(8) the combined communities of King Cove and Cold Bay have approximately 250 vehicles.

SEC. 3. PURPOSE.

The purpose of this Act is to establish a surface transportation easement across Federal lands within the Refuge and to transfer 664 acres of high value habitat lands adjacent to the Refuge in fee simple from the King Cove Corporation to the Federal Government as new wilderness lands within the Refuge in exchange for redesignating a narrow corridor of land within the Refuge as nonwilderness lands.

SEC. 4. LAND EXCHANGE.

If the King Cove Corporation offers to transfer to the United States all right, title, and interest of the Corporation in and to all land owned by the Corporation in Sections 2, 3, 4, 5, 6, and 7 of T 57 S, R 88 W, Seward Meridian, Alaska, and any improvements thereon, the Secretary of the Interior (''Secretary'') shall, not later than 30 days after such offer, grant the Aleutians East Borough a perpetual right-of-way of 60 feet in width through the lands described in sections 6 and 7 of this Act for the construction, operation and maintenance of certain utility-related fixtures and of a public road between the city of Cold Bay, Alaska, and the city of King Cove, Alaska and accept the transfer of the offered lands. Upon transfer to the United States, such lands shall be managed in accordance with section 1302(i) of the Alaska National Interest Lands Conservation Act, shall be included within the Refuge, and shall be managed as wilderness.

SEC. 5. RIGHT-OF-WAY.

Unless otherwise agreed to by the Secretary and the Aleutians East Borough, the right-of-way granted under section 4 shall—

(1) include sufficient lands for logistical staging areas and construction material sites used for the construction and maintenance of an unpaved, one-lane public road sufficient in width to meet the minimum requirements necessary to satisfy State law;

(2) meet all requirements for a public highway right-of-way under the laws of the State of Alaska; and

(3) include the right for the Aleutians East Borough, or its assignees, to construct, operate, and maintain electrical, telephone, or other utility facilities and structures within the right-of-way.

SEC. 6. CONFORMING CHANGE.

Upon the offer of Corporation lands under section 4, the boundaries of the wilderness area within the Refuge are modified to exclude from wilderness designation a 100 foot wide corridor to accommodate the right-of-way within the following land sections:

(1) Sections 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 35, and 36 of T 56 S, R 87 W, Seward Meridian, Alaska.

(2) Sections 23, 24, 25, 26, 27, 34, 35, and 36 of T 56 S, R 88 W, Seward Meridian, Alaska.

(3) Sections 1, 2, 11, and 12 of T 57 S, R 89 W, Seward Meridian, Alaska.

SEC. 7. RIGHT-OF-WAY LOCATION.

Unless otherwise agreed to by the Secretary and the Aleutians East Borough, the

right-of-way granted under section 4 shall be located within—

(1) sections 2, 3, 10, and 11 of T 59 S, R 86 W, Seward Meridian, Alaska;

(2) sections 27, 28, 29, 30, 31, 32, 33, 34, and 35 of T 59 S, R 86 W, Seward Meridian, Alaska;

(3) sections 3, 4, 9, 10, 13, 14, 15, 16, 23, 24, 25, 26, and 36 of T 58 S, R 87 W, Seward Meridian, Alaska;

(4) sections 5, 6, 7, 8, 9, 16, 17, 20, 21, 27, 28, 29, 32, 33, and 34 of T 57 S, R 87 W, Seward Meridian, Alaska;

(5) sections 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 35, and 36 of T 56 S, R 87 W, Seward Meridian, Alaska;

(6) sections 23, 24, 25, 26, 27, 34, 35, and 36 of T 56 S, R 88 W, Seward Meridian, Alaska;

(7) section 6 of T 57 S, R 88 W, Seward Meridian, Alaska; and

(8) sections 1, 2, 11, and 12 of T 57 S, R 89 W, Seward Meridian, Alaska.

SEC. 8. TECHNICAL AMENDMENTS.

The following provisions of law shall not be applicable to any right-of-way granted under section 4 of this Act or to any road constructed on such right-of-way—

(1) section 22(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1621(g));

(2) title XI of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3161 et seq.), except as specified in this section; and

(3) section 303(c) of title 49, United States Code.

SEC. 9. JOINT PLAN.

The Secretary and the Aleutians East Borough shall jointly prepare a plan setting forth—

(1) the times of the year a road may reasonably be constructed when there are not high concentrations of migratory birds in Kinzarof Lagoon; and

(2) limitations on nonemergency road traffic during periods of the year when there are high concentrations of migratory birds in Kinzarof Lagoon.

SEC. 10. TRANSFER.

If within 24 months of the date the King Cove Corporation offers to transfer to the United States all right, title, and interest of the Corporation lands set forth in section 4 of this Act, the Secretary and the Aleutians East Borough fail to mutually agree on the following—

(1) a final land exchange and a grant of a right-of-way pursuant to section 4; and

(2) the right-of-way specifications, and terms and conditions of use set forth in sections 5, 6, 7 and 8 of this Act;

then the Aleutians East Borough shall have the right to select a 60 foot right-of-way for the construction, operation, and maintenance of certain utility-related fixtures and of a public road from lands described in section 7 of this Act, and to identify logistical staging areas and construction material sites within the right-of-way. If an agreement is not reached within 6 months after the Aleutians East Borough notifies the Secretary of its selection, then the right-of-way is hereby granted to the Borough.

Mr. MURKOWSKI. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I wish to take this opportunity to thank some of my staff who worked on the bill. On behalf of Senator STEVENS and myself, we would like to thank the various staff who worked so hard on the King Cove bill. Brian Malnak of my staff—particularly the Energy and Natural Resources Committee—Jo Meuse, David Dye, Gary Ellsworth, who is unfortunately retiring this year and will be greatly missed, and a number of others.

And let me thank my colleagues in the debate: Senator BUMPERS, the ranking member of the Energy and Natural Resources Committee, who is retiring this year; Senator BAUCUS from Montana; and let me again thank the Members for the vote of confidence in support of fairness. The vote was 59–38. I am sure that will send a strong message over to the House on the merits of addressing the needs of the Aleut people of King Cove who seek what we enjoy every day—and that is access.

I thank my colleagues and thank the Presiding Officer. I wish you all well.

INTERNET TAX FREEDOM ACT

Mr. MCCAIN. Mr. President, under the provisions of the consent agreement of September 30, 1998, I now ask the Chair to lay before the Senate S. 442, the Internet tax freedom bill.

The PRESIDING OFFICER (Mr. BENNETT). The clerk will report.

The legislative clerk read as follows:

A bill (S. 442) to establish national policy against State and local government interference with interstate commerce on the Internet or interactive computer services, and to exercise Congressional jurisdiction over the interstate commerce by establishing a moratorium on the imposition of exaction that would interfere with the free flow of commerce via the Internet, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Finance, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 442

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 ''Internet Tax Freedom Act''.

[SEC. 2. FINDINGS.

[The Congress finds the following:

[(1) As a massive global network spanning not only State but international borders, the Internet and the related provision of online services and Internet access service are inherently a matter of interstate and foreign commerce within the jurisdiction of the United States Congress under Article I, section 8, clause 3 of the United States Constitution.

[(2) Even within the United States, the Internet does not respect State lines and operates independently of State boundaries. Addresses on the Internet are designed to be geographically indifferent. Internet transmissions are insensitive to physical distance and can have multiple geographical addresses.

[(3) Because transmissions over the Internet are made using computer protocols, in particular the Transmission Control Protocol / Internet Protocol, that utilize packet-switching technology it is impossible to determine in advance the precise geographic route individual Internet transmissions will travel over, and it is therefore infeasible to separate domestic intrastate Internet transmissions from interstate and foreign Internet transmissions.

[(4) Consumers, businesses, and others engaging in interstate and foreign commerce through online services and Internet access service could become subject to more than 30,000 separate taxing jurisdictions in the United States alone.

[(5) Inconsistent and inadministerable taxes imposed on online services and Internet access service by State and local governments threaten to—

[(A) subject consumers, businesses, and other users engaged in interstate and foreign commerce to multiple, confusing, and burdensome taxation,

[(B) restrict the growth and continued technological maturation of the Internet itself, and

[(C) call into question the continued viability of this dynamic medium.

[(6) Because the tax laws and regulations of so many jurisdictions were established long before the advent of the Internet, online services, and Internet access service, their application to this new medium and services in unintended and unpredictable ways could prove to be an unacceptable burden on the interstate and foreign commerce of the Nation.

[(7) The electronic marketplace of services, products, and ideas available through the Internet can be especially beneficial to senior citizens, the physically challenged, citizens in rural areas, and small businesses. It also offers a variety of uses and benefits for educational institutions and charitable organizations.

[(8) A consistent and coherent national policy regarding taxation of online services, Internet access service, and communications and transactions using the Internet, and the concomitant uniformity, simplicity, and fairness that is needed to avoid burdening this evolving form of interstate and foreign commerce, can best be achieved by the United States exercising its authority under Article I, section 8, clause 3 of the United States Constitution.

[SEC. 3. MORATORIUM ON IMPOSITION OF TAXES ON THE INTERNET, ONLINE SERVICES, OR INTERNET ACCESS SERVICE.

[(a) MORATORIUM.—Except as otherwise provided in this Act, prior to January 1, 2004, no State or political subdivision thereof may impose, assess, or attempt to collect any tax on—

[(1) communications or transactions using the Internet; and

[(2) online services or Internet access service.

[(b) PRESERVATION OF STATE AND LOCAL TAXING AUTHORITY.—Subsection (a) shall not—

[(1) affect the authority of a State, or a political subdivision thereof, to impose a sales, use, or other transaction tax on online services, Internet access service, or communications or transactions using the Internet if—

[(A) the tax (including the rate at which it is imposed) is the same as the tax generally imposed and collected by that State or political subdivision thereof in the case of similar sales, use, or transactions not using the Internet, online services, or Internet access service; and

[(B) the obligation to collect or pay the tax from sales or other transactions using the Internet, online services, or Internet access service is imposed on the same person or entity as in the case of similar sales, use, or transactions not using the Internet, online services, or Internet access service;

[(2) apply to taxes imposed on or measured by gross or net income derived from online services, Internet access service, or communications or transactions using the Internet, or on value added, net worth, or capital stock;

[(3) apply to fairly apportioned business license taxes;

[(4) apply to taxes paid by a provider or user of online services or Internet access service as a consumer of goods and services

not otherwise excluded from taxation pursuant to this Act;

[(5) apply to property taxes imposed or assessed on property owned or leased by a provider or user of online services or Internet access service;

[(6) apply to taxes imposed on or collected by a common carrier, as defined in section 3 of the Communications Act of 1934 (47 U.S.C. 153), acting in its capacity as a common carrier;

[(7) apply to taxes imposed on or collected by a provider of telecommunications service, as that term is defined in section 3 of the Communications Act of 1934 (47 U.S.C. 153); or

[(8) apply to franchise fees imposed by a State or local franchising authority, pursuant to sections 622 or 653 of the Communications Act of 1934 (47 U.S.C. 622 or 573), for the provision of cable services, as those terms are defined by such Act.

[SEC. 4. ADMINISTRATION POLICY RECOMMENDATIONS TO CONGRESS.

[(a) CONSULTATIVE GROUP.—The Secretaries of the Treasury, Commerce, and State, in consultation with appropriate committees of the Congress, the National Tax Association-sponsored Joint Communications and Electronic Commerce Tax Project and the National Conference of Commissioners of Uniform State Laws, consumer and business groups, States and political subdivisions thereof, and other appropriate groups, shall—

[(1) undertake an examination of United States domestic and international taxation of—

[(A) communications and transactions using the Internet,

[(B) online services and Internet access service, and

[(C) the telecommunications infrastructure used by the Internet, online services, and Internet access service;

[(2) consider any specific proposals made by the Joint Communications and Electronic Commerce Tax Project and the National Conference of Commissioners of Uniform State Laws concerning appropriate parameters for taxation by States, and political subdivisions thereof, of matters described in paragraph (1); and

[(3) jointly submit appropriate policy recommendations concerning United States domestic and foreign policies toward taxation of online services, Internet access service, and communications and transactions using the Internet, if any, to the President within 18 months after the date of enactment of this Act.

[(b) *PRESIDENT.—Not later than 2 years after the date of enactment of this Act, the President shall, to the extent and in the form the President deems appropriate, transmit to the appropriate committees of Congress policy recommendations on taxation of online services, Internet access service, and communications and transactions using the Internet.*

[SEC. 5. DECLARATION THAT THE INTERNET SHOULD BE FREE OF FOREIGN TARIFFS, TRADE BARRIERS, AND OTHER RESTRICTIONS.

[It is the sense of the Congress that the President should seek bilateral and multilateral agreements through the World Trade Organization, the Organization for Economic Cooperation and Development, the Asia Pacific Economic Cooperation Council, and other appropriate international fora to establish that commercial transactions using the Internet are free from tariff and taxation.

[SEC. 6. DEFINITIONS.

[For the purposes of this Act—

[(1) INTERNET.—The term ''Internet'' means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol / Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

[(2) ONLINE SERVICES.—The term ''online services'' means the offering or provision of information, information processing, and products or services to a user as part of a package of services that are combined with Internet access service and offered to the user for a single price.

[(3) INTERNET ACCESS SERVICE.—The term ''Internet access service'' means the offering or provision of the storage, computer processing, and transmission of information that enables the user to make use of resources found via the Internet.

[(4) TAX—The term ''tax'' includes any charge imposed by legislative authority to raise revenue for the needs of the public, as well as any license or fee that is imposed by any governmental entity. Such term also includes the imposition on the seller of an obligation to collect and remit to a governmental entity any charge (as defined in the preceding sentence), license, or fee imposed on the buyer by a governmental entity.]

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Internet Tax Freedom Act''.

TITLE I—MORATORIUM ON CERTAIN TAXES

SEC. 101. MORATORIUM.

(a) MORATORIUM.—No State or political subdivision thereof shall impose any of the following taxes on transactions occurring during the period beginning on July 29, 1998, and ending 2 years after the date of the enactment of this Act:

(1) Taxes on Internet access.

(2) Bit taxes.

(3) Multiple or discriminatory taxes on electronic commerce.

(b) APPLICATION OF MORATORIUM.—Subsection (a) shall not apply with respect to the provision of Internet access that is offered for sale as part of a package of services that includes services other than Internet access, unless the service provider separately states that portion of the billing that applies to such services on the user's bill.

SEC. 102. ADVISORY COMMISSION ON ELECTRONIC COMMERCE.

(a) ESTABLISHMENT OF COMMISSION.—There is established a commission to be known as the Advisory Commission on Electronic Commerce (in this title referred to as the ''Commission''). The Commission shall—

(1) be composed of 16 members appointed in accordance with subsection (b), including the chairperson who shall be selected by the members of the Commission from among themselves; and

(2) conduct its business in accordance with the provisions of this title.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Commissioners shall serve for the life of the Commission. The membership of the Commission shall be as follows:

(A) Four representatives from the Federal Government comprised of the Secretary of Commerce, the Secretary of State, the Secretary of the Treasury, and the United States Trade Representative, or their respective representatives.

(B) Six representatives from State and local governments comprised of—

(i) two representatives appointed by the Majority Leader of the Senate;

(ii) one representative appointed by the Minority Leader of the Senate;

(iii) two representatives appointed by the Speaker of the House of Representatives; and

(iv) one representative appointed by the Minority Leader of the House of Representatives.

(C) Six representatives of the electronic industry and consumer groups comprised of—

(i) two representatives appointed by the Majority Leader of the Senate;

(ii) one representative appointed by the Minority Leader of the Senate;

(iii) two representatives appointed by the Speaker of the House of Representatives; and

(iv) one representative appointed by the Minority Leader of the House of Representatives.

(2) APPOINTMENTS.—Appointments to the Commission shall be made not later than 45 days after the date of the enactment of this Act. The chairperson shall be selected not later than 60 days after the date of the enactment of this Act.

(3) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) ACCEPTANCE OF GIFTS AND GRANTS.—The Commission may accept, use, and dispose of gifts or grants of services or property, both real and personal, for purposes of aiding or facilitating the work of the Commission. Gifts or grants not used at the expiration of the Commission shall be returned to the donor or grantor.

(d) OTHER RESOURCES.—The Commission shall have reasonable access to materials, resources, data, and other information from the Department of Justice, the Department of Commerce, the Department of State, the Department of the Treasury, and the Office of the United States Trade Representative. The Commission shall also have reasonable access to use the facilities of any such Department or Office for purposes of conducting meetings.

(e) SUNSET.—The Commission shall terminate 18 months after the date of the enactment of this Act.

(f) RULES OF THE COMMISSION.—

(1) QUORUM.—Nine members of the Commission shall constitute a quorum for conducting the business of the Commission.

(2) MEETINGS.—Any meetings held by the Commission shall be duly noticed at least 14 days in advance and shall be open to the public.

(3) OPPORTUNITIES TO TESTIFY.—The Commission shall provide opportunities for representatives of the general public, taxpayer groups, consumer groups, and State and local government officials to testify.

(4) ADDITIONAL RULES.—The Commission may adopt other rules as needed.

(g) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall conduct a thorough study of Federal, State and local, and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable interstate or international sales activities.

(2) ISSUES TO BE STUDIED.—The Commission may include in the study under subsection (a)—

(A) an examination of—

(i) barriers imposed in foreign markets on United States providers of property, goods, services, or information engaged in electronic commerce and on United States providers of telecommunications services; and

(ii) how the imposition of such barriers will affect United States consumers, the competitiveness of United States citizens providing property, goods, services, or information in foreign markets, and the growth and maturing of the Internet;

(B) an examination of the collection and administration of consumption taxes on interstate commerce in other countries and the United States, and the impact of such collection on the global economy, including an examination of the relationship between the collection and administration of such taxes when the transaction uses the Internet and when it does not;

(C) an examination of the impact of the Internet and Internet access (particularly voice transmission) on the revenue base for taxes imposed under section 4251 of the Internal Revenue Code of 1986;

(D) an examination of—

(i) the efforts of State and local governments to collect sales and use taxes owed on purchases from interstate sellers, the advantages and disadvantages of authorizing State and local governments to require such sellers to collect and remit such taxes, particularly with respect to electronic commerce, and the level of contacts sufficient to permit a State or local government

to impose such taxes on such interstate commerce;

(ii) model State legislation relating to taxation of transactions using the Internet and Internet access, including uniform terminology, definitions of the transactions, services, and other activities that may be subject to State and local taxation, procedural structures and mechanisms applicable to such taxation, and a mechanism for the resolution of disputes between States regarding matters of multiple taxation; and

(iii) ways to simplify the interstate administration of sales and use taxes on interstate commerce, including a review of the need for a single or uniform tax registration, single or uniform tax returns, simplified remittance requirements, simplified administrative procedures, or the need for an independent third party collection system; and

(E) the examination of ways to simplify Federal and State and local taxes imposed on the provision of telecommunications services.

SEC. 103. REPORT.

Not later than 18 months after the date of the enactment of this Act, the Commission shall transmit to Congress a report reflecting the results of the Commission's study under this title. No finding or recommendation shall be included in the report unless agreed to by at least two-thirds of the members of the Commission serving at the time the finding or recommendation is made.

SEC. 104. DEFINITIONS.

For the purposes of this title:

(1) BIT TAX.—The term ''bit tax'' means any tax on electronic commerce expressly imposed on or measured by the volume of digital information transmitted electronically, or the volume of digital information per unit of time transmitted electronically, but does not include taxes imposed on the provision of telecommunications services.

(2) DISCRIMINATORY TAX.—The term ''discriminatory tax'' means any tax imposed by a State or political subdivision thereof on electronic commerce that—

(A) is not generally imposed and legally collectible by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means;

(B) is not generally imposed and legally collectible at the same rate by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means, unless the rate is lower as part of a phase-out of the tax over not more than a 5-year period; or

(C) imposes an obligation to collect or pay the tax on a different person or entity than in the case of transactions involving the same or similar property, goods, services, or information accomplished through other means.

(3) ELECTRONIC COMMERCE.—The term ''electronic commerce'' means any transaction conducted over the Internet or through Internet access, comprising the sale, lease, license, offer, or delivery of property, goods, services, or information, whether or not for consideration, and includes the provision of Internet access.

(4) INTERNET.—The term ''Internet'' means the combination of computer facilities and electromagnetic transmission media, and related equipment and software, comprising the interconnected worldwide network of computer networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocol, to transmit information.

(5) INTERNET ACCESS.—The term ''Internet access'' means a service that enables users to access content, information, electronic mail, or other services offered over the Internet, and may also include access to proprietary content, information, and other services as part of a package of services offered to consumers. Such term does not include telecommunications services.

(6) MULTIPLE TAX.—

(A) IN GENERAL.—The term ''multiple tax'' means any tax that is imposed by one State or political subdivision thereof on the same or essentially the same electronic commerce that is also subject to another tax imposed by another State or political subdivision thereof (whether or not at the same rate or on the same basis), without a credit (for example, a resale exemption certificate) for taxes paid in other jurisdictions.

(B) EXCEPTION.—Such term shall not include a sales or use tax imposed by a State and 1 or more political subdivisions thereof on the same electronic commerce or a tax on persons engaged in electronic commerce which also may have been subject to a sales or use tax thereon.

(C) SALES OR USE TAX.—For purposes of subparagraph (B), the term ''sales or use tax'' means a tax that is imposed on or incident to the sale, purchase, storage, consumption, distribution, or other use of tangible personal property or services as may be defined by laws imposing such tax and which is measured by the amount of the sales price or other charge for such property or service.

(7) STATE.—The term ''State'' means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(8) TAX.—

(A) IN GENERAL.—The term ''tax'' means—

(i) any levy, fee, or charge imposed under governmental authority by any governmental entity; or

(ii) the imposition of or obligation to collect and to remit to a governmental entity any such levy, fee, or charge imposed by a governmental entity.

(B) EXCEPTION.—Such term shall not include any franchise fees or similar fees imposed by a State or local franchising authority, pursuant to section 622 or 653 of the Communications Act of 1934 (47 U.S.C. 542, 573).

(9) TELECOMMUNICATIONS SERVICES.—The term ''telecommunications services'' has the meaning given such term in section 3(46) of the Communications Act of 1934 (47 U.S.C. 153(46)) and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986).

TITLE II—OTHER PROVISIONS

SEC. 201. DECLARATION THAT INTERNET SHOULD BE FREE OF NEW FEDERAL TAXES.

It is the sense of Congress that no new Federal taxes similar to the taxes described in section 101(a) should be enacted with respect to the Internet and Internet access during the moratorium provided in such section.

SEC. 202. NATIONAL TRADE ESTIMATE.

Section 181 of the Trade Act of 1974 (19 U.S.C. 2241) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A)—

(i) by striking ''and'' at the end of clause (i);

(ii) by inserting ''and'' at the end of clause (ii); and

(iii) by inserting after clause (ii) the following new clause:

''(iii) United States electronic commerce,''; and

(B) in subparagraph (C)—

(i) by striking ''and'' at the end of clause (i);

(ii) by inserting ''and'' at the end of clause (ii);

(iii) by inserting after clause (ii) the following new clause:

''(iii) the value of additional United States electronic commerce,''; and

(iv) by inserting ''or transacted with,'' after ''or invested in'';

(2) in subsection (a)(2)(E)—

(A) by striking ''and'' at the end of clause (i);

(B) by inserting ''and'' at the end of clause (ii); and

(C) by inserting after clause (ii) the following new clause:

''(iii) the value of electronic commerce transacted with,''; and

(3) by adding at the end the following new subsection:

''(d) ELECTRONIC COMMERCE.—For purposes of this section, the term 'electronic commerce' has the meaning given that term in section 104(3) of the Internet Tax Freedom Act.''.

SEC. 203. DECLARATION THAT THE INTERNET SHOULD BE FREE OF FOREIGN TARIFFS, TRADE BARRIERS, AND OTHER RESTRICTIONS.

(a) IN GENERAL.—It is the sense of Congress that the President should seek bilateral, regional, and multilateral agreements to remove barriers to global electronic commerce through the World Trade Organization, the Organization for Economic Cooperation and Development, the Trans-Atlantic Economic Partnership, the Asia Pacific Economic Cooperation forum, the Free Trade Area of the America, the North American Free Trade Agreement, and other appropriate venues.

(b) NEGOTIATING OBJECTIVES.—The negotiating objectives of the United States shall be—

(1) to assure that electronic commerce is free from—

(A) tariff and nontariff barriers;

(B) burdensome and discriminatory regulation and standards; and

(C) discriminatory taxation; and

(2) to accelerate the growth of electronic commerce by expanding market access opportunities for—

(A) the development of telecommunications infrastructure;

(B) the procurement of telecommunications equipment;

(C) the provision of Internet access and telecommunications services; and

(D) the exchange of goods, services, and digitalized information.

(c) ELECTRONIC COMMERCE.—For purposes of this section, the term ''electronic commerce'' has the meaning given that term in section 104(3).

SEC. 204. NO EXPANSION OF TAX AUTHORITY.

Nothing in this Act shall be construed to expand the duty of any person to collect or pay taxes beyond that which existed immediately before the date of the enactment of this Act.

SEC. 205. PRESERVATION OF AUTHORITY.

Nothing in this Act shall limit or otherwise affect the implementation of the Telecommunications Act of 1996 (Public Law 104–104) or the amendments made by such Act.

(Under the order of September 30, 1998, the Commerce Committee amendment and the Finance Committee amendment were agreed to.)

Mr. MCCAIN. For the information of all Senators, several amendments are expected to be offered and debated tomorrow to this vital piece of legislation. Therefore, all Members should be aware that votes can be expected to occur on Friday.

Mr. President, tomorrow morning we will start out with a Bumpers amendment which he will be prepared to propound shortly after we convene in the morning. And we expect a couple of other amendments besides that. Also, it is the intention of the leader to file cloture tomorrow morning, as well, on this legislation since we only have a few days remaining in the session.

We have been working with Senator DORGAN and with Senator GRAHAM of Florida to try to resolve the remaining issues, and with Senator JUDD GREGG of New Hampshire. I am hopeful that we can reach agreement which would then allow us to move forward quickly and resolve this very important piece of legislation.

I yield the floor.

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from the State of Utah, suggests the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mrs. HUTCHISON. On behalf of the leader, I ask unanimous consent that there now be a period for morning business, with Senators permitted to speak for up to 5 minutes each.

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

PATIENTS' BILL OF RIGHTS

Mr. KENNEDY. Mr. President, the matter that I want to address, again, is the issue of the Patients' Bill of Rights. It is time for our Republican leadership to stop the blocking of the Patients' Bill of Rights. It is time for them to stop protecting the insurance company profits and start protecting the parties. It is time for them to stop manipulating the rules of the Senate to deny the American people the protections they deserve.

It is clear what is going on here. It is clear to every Member of the Senate. It should be clear to the American people. The American people want Congress to pass strong, effective legislation to end the abuse by HMOs, the managed care plans, and the health insurance companies.

The Patients' Bill of Rights, sponsored by Senator DASCHLE and Senate Democrats, provides the needed and long overdue antidote to the festering and growing abuses. Our goal is to protect patients and see that insurance plans provide the quality care they promise but too often fail to deliver.

Two hundred groups of patients, doctors, nurses, and families have announced support for our bill and are begging the Republican leadership to listen to their voices. I have the list of the various groups supporting our legislation. They represent virtually all of the major doctor and nurse organizations and consumer groups, starting with the American Medical Association, the various cancer societies, the National Breast Cancer Coalition, and all of the American nursing associations. The supporters also include those groups that are most interested in the health care of children including the Children's Defense Fund and the American Academy of Pediatrics. These groups also represent our senior citizens including the National Council of Senior Citizens. The bill is also supported by groups that are most interested in mental health, the Mental Health Association, and those groups most concerned about disability policies including the Multiple Sclerosis Society, United Cerebral Palsy, the American Academy of Neurology, and the Center on Disability and Health.

This, Mr. President, is only one page of a series of pages of different groups where it can be said, without contradiction, that every major medical association in our country supports the Daschle proposal which is sponsored by the Democrats. Virtually every single doctors organization, every single nurses organization, every single consumer organization, every organization that has represented children in our society, every association that represents cancer victims, every association that represents the disability community—every one of those organizations, plus many others, support our particular proposal. There is not one organization, not a single organization, that supports the alternative Republican proposal. We have asked day in and day out for them just to find one organization representing any of the doctors or nurses, children's groups, women's groups, cancer victims groups, disability groups, any of those groups in our society, and all we have is silence.

This isn't a matter that we are advocating because of our particular interest. We are advocating on behalf of all of these organizations and all of the various patients and all of the various families that are part of this central concern about how we best can protect the families in this country. The best way those families can be protected is, at least, through debate on a Patients' Bill of Rights and, I believe, by the enactment of this legislation.

As we have said on many different occasions, these are commonsense solutions to the kind of problems that are real problems out there and that are being faced by families every single day. If a child is sick and the parents of that child belong to one HMO, that ambulance has to drive by the nearest emergency room and go to an emergency room across town because it is on the list of that HMO. When that child is in an emergency situation, they ought to be able to go to the nearest hospital—that is one of our bills' protections. It is listed right here. We believe that child ought to have the opportunity to go to the nearest emergency room and have the kind of immediate attention, but also the follow-up attention that they need.

That right would be guaranteed under our Patients' Bill of Rights. We want to debate that issue. That is a commonsense proposal. It is a commonsense proposal that any family can understand. If there is going to be an emergency affecting a child, it makes no sense to drive them by the nearest emergency room and take them clear across town to a more distant emergency room if that child needs immediate medical attention.

That is common sense. That protection is here. We ought to be able to debate that particular issue, but we are denied that opportunity. We ought to be able to get to it. I believe it wouldn't take a great deal of time.

The list goes on. Our bill was introduced in March. But, the Senate has taken no action because the Republican leadership has been using every trick in the procedural playbook to prevent a meaningful debate. The Republican leadership is abusing the rules of the Senate so that the health insurance companies can continue to abuse patients. That happens to be the fact.

We have too many instances of reports from patients that say, every single day we fail to provide these guarantees, members of their family are put at risk. Every day we continue to deny women who have breast cancer the opportunity to be involved in clinical trials at places like the Lombardi Center, we are putting those particular women at risk.

As I mentioned yesterday, out at the Lombardi Center they have eight professional individuals whose only job is to argue with the HMOs to permit the parties involved, access to the clinical trials their doctors say are necessary but that the HMO will not permit them access to.

Our bill provides these kinds of protections. It is common sense. Without these kinds of protections, we are endangering the lives of those individuals who ought to be a part of the clinical trials. That is a very important protection.

Every day, we are denied that kind of debate and resolution, but we still find that patients are abused by too many of the HMOs. The Republican leadership wants to gag the Senate so that HMOs can continue to gag the doctors who tell patients about needed treatments that are too expensive for the HMO balance sheet.

I use those words ''gag the Senate'' because all we have had on the other side is the proposal that you can have one, two, or three amendments but no other. You can't have any others. We are not going to take the time of the U.S. Senate to do it, although we did find time to have a debate on the issue of salting; we had time to debate that issue. We had time to debate the issues on the Vacancies Act. We have had time to debate issues like bankruptcy which affects 1.2 million people. But our patient protections bill, which affects tens of millions of our fellow citizens, we evidently, haven't got the time to debate that.

The Republican leadership wants to deny a fair debate on the Patients' Bill of Rights so HMOs can continue to deny the needed patient care. The Republican leadership wants to avoid accountability in the U.S. Senate so that managed care plans can avoid accountability with their unfair decisions, when their unfair decisions kill or injure patients. The Republican leadership has found time to call up the Vacancy Act, the salting bill, the Child Custody Act, the Bankruptcy Act, and the Internet tax bill. So it is clear that

protecting patients from abuse by HMOs and health insurance companies is a priority for American families, but not for the Republican leadership.

How else can that be explained? How else can you explain the fact that the Republican leadership has called up these different pieces of legislation, but denies us the opportunity to debate this issue, which is of essential importance?

Listen to this, Mr. President. The Republican leadership, just yesterday, agreed to a unanimous consent agreement on the Internet tax bill that would have allowed all relevant amendments—no limitation on the number of amendments, no limitation on the time to debate each amendment, and no limitation on the time for the overall debate. We should have the opportunity to do that on the Patients' Bill of Rights, but, oh, no, we can't do that with the Patients' Bill of Rights—even though the failure to provide these protections puts at risk so many fellow citizens every single day.

But no, the Republican leadership said instead we will have a consent agreement on the Internet tax bill. I wonder how many people here in the Senate, let alone those who are watching, would feel that particular issue is of more importance than the Patients' Bill of Rights. We have moved ahead now on the questions of that particular legislation, and I intend to support it. It is important legislation, particularly for a State like mine, Massachusetts, with a lot of high tech and similar kinds of issues. But, Mr. President, to put this bill on the same level as what we are talking about with the Patients' Bill of Rights, it just shouldn't be.

Senator DASCHLE asked Senator LOTT for a similar agreement on the Patients' Bill of Rights on June 25. He asked him for an agreement on July 29. He asked him on September 1, and he asked him on September 9. Each time, Senator LOTT, the Senate Republican leader, said no. Do we understand that, Mr. President? On June 25, on this legislation—the Patients' Bill of Rights, Senator DASCHLE asked for the same kind of agreement made yesterday by the Republican leadership on the Internet tax bill. He asked for it on July 29. He asked for it September 1. He asked for it on September 9. Each time, Senator LOTT and the Senate Republicans said no.

Senator DASCHLE also offered to agree on May 12 and on July 16, to a far more restrictive agreement, limiting the number of amendments, but Senator LOTT and the Republicans said no. Senator LOTT and the Senate Republicans are perfectly willing to agree to essentially unlimited debate on the Internet tax bill, but they are not willing to allow any reasonable opportunity to debate, amend, and vote on the Patients' Bill of Rights. This record of abuse should be unacceptable to the Senate, and it certainly is unacceptable to the American public.

What does our legislation do, and why is the Republican leadership so anxious to prevent its consideration? Our bipartisan Patients' Bill of Rights takes insurance company accountants out of the practice of medicine and returns decisionmaking to patients' doctors, where it belongs. That is it. When you come right down to it, there it is. When you are going to the emergency room, an accountant can say, ''No, you can't go there, you have to go across town.'' Our bill says if you have an emergency, go to the nearest one. If you need access to a specialist and the primary care physician says go to a specialist, you can go to a specialist. Or if you need a pediatric specialist, where a child has cancer—you can go to an oncology specialist for children. These are common sense protections. It is the doctors, the patients, the medical professions making the decision, not the accountants. That's the bottom line.

Mr. President, when we say these are commonsense solutions, I daresay that 99 percent of the American people would agree that doctors and nurses ought to make the decisions with regard to health care issues for your family and for your children, not accountants. That is what we are trying to do and that is at the heart of this debate. But we are denied the opportunity to have that debate because once you go and say you are going to have the medical decisions affecting your family decided by doctors and trained medical professionals, it somehow may threaten the profits of the health delivery system, the HMOs. Those HMOs have layers of different individuals that say ''no.''

I am reminded of when President Clinton said just a week ago, ''You never find an accountant in an HMO that loses his job for saying 'no.' They don't get fired. The ones that get fired are the ones that say 'yes.'" Yes, they need to go to a specialist; yes, they need additional kinds of important types of prescription drugs; yes, they need to have the kind of care that may be more costly, but, more importantly, may save the life of that individual; and, yes, it may very well be if those people get better, it would be less costly to the HMO over a long period of time. That is the issue, Mr. President. That is the bottom line.

Our program simply guarantees people the rights that every honorable insurance company already provides, and provides an effective and timely means to enforce these rights. The good, honorable insurance companies do that, Mr. President, and so do some of the HMOs. But, many of them do not. And what happens is they obviously have the competitive advantage over the good ones. That is wrong. They have the competitive advantage because they shortchange the protection of their consumers, and that is what is at the heart of this whole debate. The protections we provide, as I mentioned, are commonsense components of good health care that every family believes they were promised when they purchased their health insurance and paid the premiums. Virtually all of the protections in this legislation are already available under medical care.

As I mentioned, of these 15 protections which are at the heart of our legislation, over half of them are already in the law under Medicare. Over half of them have been unanimously recommended by the President's bipartisan commission—not in legislation, but recommended as being essential in terms of good health care. And we know that many of them have been recommended by various health care plans, and many have even been recommended by the insurance commissioners that have responsibility—made up of Republicans and Democrats alike.

You cannot find on this list a single one of these commonsense protections that haven't been recommended by at least one of those four groups. And most of them have been recommended by two, or even three, of those groups. These aren't off-the-wall kinds of protections. These are commonsense protections. They are recommended by those who understand what the opportunity and the problems are in terms of health care delivery by HMOs. That is it. Why don't we have the opposition saying, ''Where did you find 5, or 6, or 7, or 10 of those various recommendations? Where in the world did they come from? Who thought those up?'' That isn't an argument that is made. All 15—are either recommended by the bipartisan President's commission, the health plan agencies themselves, Medicare, or the insurance industry themselves. That is why, when we say these are common sense, they are, Mr. President.

If you are not going to find the various health plans responding to these recommendations and enforcing them, at some time you are going to have to go ahead with this. I daresay that the very good HMOs are complying with this now. They have nothing to fear. That is why many of the HMOs endorse this, because they are already doing it. The good ones are already doing it. The good ones have absolutely no fear about it. It is just the other ones. Those are the ones that result in the kinds of tragedies that have been listed by so many of our colleagues over the preceding weeks and months. These are commonsense rights that provide access to the appropriate specialists when the patient's condition requires specialty care. They allow people with chronic illnesses and disabilities to have referrals to the specialists that they need on a regular basis. They provide for a continuity of care so the people will not have to interrupt their course of treatment and find another doctor because their health plan drops their physician or because their employer changes health plans in the middle of a treatment, for example.

When a member of the family is being treated with chemotherapy and has to have a combination of treatment over 6 or 12 months, or 18 months,

to find out in the middle of that, after 5 months, with all the kinds of anxieties that people are affected by, that the particular company has changed HMOs and suddenly that doctor and the nurse and the treatment are pulled out from underneath you, we think that family ought to be protected. That individual who is going through that particular chemotherapy, or specialized care, ought to be able to complete that particular treatment.

Is that such a radical idea, when you have an individual who has had all of these kinds of concerns—not just financial concerns, but the emotional, the pain, and the suffering—and finally to have what is so important, the doctor-patient relationship, the trust and confidence in that doctor, and then, because some bureaucratic decision is made to pull that doctor away from that particular patient—we think there ought to be a guarantee that there can at least be the continuation of care for that particular incidence of care.

Is that so dramatic? Is that so unreasonable? Is that so outrageous? It seems to me that is common sense.

No patient with symptoms of a stroke should be forced to delay treatment to the point where paralysis and disability are permanent because a managed care accountant does not respond promptly and appropriately.

Patients with serious illnesses, like cancer, Alzheimer's, osteoporosis, or rheumatoid arthritis, who cannot be helped by standard treatment, should have the right to participate in the quality clinical trials that can help find a cure or offer the hope of improvement. Traditionally, insurance has allowed patients this opportunity. But, no; managed care is saying no to both the patients and medical personnel. Now, too many of the managed care companies are saying no to both. Patients and medical research are suffering.

It was unthinkable 5 years ago that when a doctor recommended that a child participate in a clinical trial, the insurance wouldn't cover them. They all did. It has only been in the most recent times where it is becoming a pattern and practice of too many HMOs that say no, we are not going to permit you to participate, even though a doctor believes that it is in the health interests of the individual to participate in those particular clinical trials.

Mr. President, the thing that is really so shocking is that we are now seeing extraordinary breakthroughs—every single week there are new medical breakthroughs. Particularly in the areas of cancer, there are new medical breakthroughs, and specifically in the area of breast cancer.

Look at all of the work that has been done in terms of the mapping of the human gene and isolating the various DNA through research. Look at the extraordinary work that is being done out at NIH and a few of the other great research centers, and the new kinds of opportunities that are available through research that are targeting these kinds of illnesses and diseases. I personally believe that the next century is going to be the century of the life sciences. Just at a time when we have the greatest opportunity for cures of the most dreaded disease, we are closing down the opportunities for participating in these clinical trials. It is just extraordinary.

In the testimony that we have seen, it is clear that there isn't really any additional cost to the various HMOs, because all they are asking for is continuity of care for the patient, and just to continue to pay the outlay—not for the particular analysis of the various clinical trials, not for the new kinds of medications that might be rare and expensive, not to do summations, or pay, or participate in terms of these other kinds of studies. Absolutely not. All the HMO has to do is the continuity of care—just provide the kind of care that they would otherwise be providing.

That is the amazement of some of the top researchers who appeared before our forums, who were in charge of some of the most important clinical trials in this country, because they say it really doesn't cost the HMO any more. The fact is, if the patients participate, they may very well and so often do get much better, and it saves the HMO a great deal of resources and funding. That is why there is an absolute disbelief on the part of so many of the top researchers.

They pointed out that not only were we disadvantaging so many individuals, particularly in the area of cancers, and specifically in the area of breast cancer and clinical trials, but also that the research progress was being hurt here in the United States because of the failure of participation of many of these patients.

As I mentioned just a moment ago, in all of the various forums that we had, there were many different facts that stood out. But when you have the top clinicians say that at the Lombardi Clinical Research Center, here within the shadow of the Nation's Capitol, they have eight highly professional people who are spending all of their time all day long wrestling with HMOs based on the fact that doctors have recommended that their patients participate in these clinical trials, but yet still have to spend all of their time arguing with the HMO to permit those individuals to actually participate in these clinical trials. It is absolutely beyond belief to me, absolutely beyond belief.

Mr. DURBIN. Mr. President, will the Senator yield for a question?

Mr. KENNEDY. I am glad to yield for a question.

Mr. DURBIN. If I understand, the statement is that before we go home we need to address the Patients' Bill of Rights. It appears that there is a wide public sentiment in support of this. It isn't a partisan issue, by a long shot. All the polls suggest that the voters, almost uniformly—Democrats, Republicans, independents—believe that this is a critical and important issue.

When I brought this issue to the State of Illinois and visited a hospital with a doctor, he told me a story of a woman bringing her son in complaining of headaches on the left side of his head. The doctor thought that a CAT scan was indicated to see if a tumor was present. Before he told the mother, he called the insurance company. They said they would not pay for it. The doctor had to go back into his office and tell the mother that he thought they didn't need to do anything. He was prohibited by the terms of his contract with the insurance company from even telling the mother that he had been overruled by the insurance company. Think of that—if you are bringing your son or daughter into a doctor, that you could be treated that way.

What Senator KENNEDY is suggesting, and many of us believe is important before we go home, before we address other issues on the floor: We should take up the Patients' Bill of Rights for that mother and the millions of others like her across America who are counting on us to do something substantive before we leave.

I fully support the Senator.

Mr. KENNEDY. If I could just add to what the Senator has pointed out, would you believe that in the Republican proposal, for example, any medical procedure that wasn't over $1,000 could not be appealed? And so for the kind of situation that the Senator is talking about, under the Republican proposal, they say, oh, look, we have taken care of that, except if that medical procedure is less than $1,000. Then there is no opportunity for appeal. So, effectively, you are saying there are no MRIs for any child who falls off a bicycle, gets hit playing football, falls down or has an accident playing hockey. And the Senator from Illinois knows families as I do that deny their children the opportunity to play sports because they haven't got health insurance or because they are not going to be able to get any kind of coverage for sickness or illness.

As bad as it is, as the Senator has pointed out, we ought to have an opportunity—would the Senator not agree, to debate this sort of phony protection advanced by the Republicans, saying we will guarantee some opportunity for appeal but not if it was under $1,000.

Patients should have the right to appeal decisions of their plans to independent third parties. Today, if a health plan breaks its promise, there is no remedy that can provide relief in time to save a life or prevent a disability.

Independent review was recommended unanimously by the President's Commission. It has worked successfully in Medicare for over thirty years. Families deserve the basic fairness that only an impartial appeal can provide. Without such a remedy, any ''rights'' of patients exist on paper

only—and they are often worth no more than the paper on which they are printed. When the issues are sickness and health—and often as serious as life and death—no health insurance company should be allowed to be both judge and jury.

In addition, when the misconduct of managed care plans actually results in serious injury or death, patients and their families should be able to hold the plans liable in court. Every other industry in America can be held responsible for its actions. Why should health plans, whose decisions truly can mean life or death, enjoy this unique and unfair immunity?

Under current law—the Employee Retirement and Income Security Act—patients whose lives have been devastated or destroyed by the reckless behavior of their health plan have no right to go to court to obtain an appropriate remedy under state law. ERISA ''preempts'' all state remedies. Patients are limited to the narrow federal remedy under ERISA, which covers only the cost of the procedure that the plan failed to pay for. You can be crippled for life by cancer because your plan refused to authorize a test costing a few hundred dollars to detect the cancer in its early stages—and all you can get back to help support your family is the cost of the test you failed to get.

During the debate on the tobacco legislation, Republicans and Democrats alike voted overwhelmingly to support the principle that no industry in America should be exempt from accountability for its actions. Because of ERISA preemption, one industry alone—the health insurance industry—enjoys this protection today. That is wrong—and the Senate should say it's wrong.

During the debate on welfare reform, many on the other side of the aisle spoke strongly in favor of the need for individuals to take responsibility for their actions. It is ironic that some of those who spoke most strongly for responsibility for poor single mothers are opposed to responsibility for a powerful industry that earns tens of billions of dollars in profits every year.

What most Americans do not know—and what the opponents of change ignore—is that ERISA pre-emption does not apply to state and local employee health plans. Employees of the city government or state government, whose health benefits are provided by taxpayers, can hold their health plan accountable in court if it kills or injures them. But equally hardworking families down the street are defenseless—because they happen to work for private industry.

Our legislation is truly a Patients' Bill of Rights that will provide these protections and more. It is a moderate, responsible, and effective response to the widespread problems patients and their families face every day. That is why it is supported by a broad and diverse coalition of doctors, nurses, patients, and advocates for children, women, and working families. That is why it enjoys bi-partisan support from members of Congress on both sides of the aisle, including a courageous physician, Dr. GREG GANSKE, a Republican Congressman from Iowa, who has seen the abuses of managed care first-hand.

The Republican leadership plan, by contrast, is not supported by any group of doctors or nurses or patients. It has no bi-partisan support. It is an industry profit protection program, not a patient protection program. It is not a Patients' Bill of Rights. It is a Patients' Bill of Wrongs. That is why we need a full debate—so that it can be amended and improved until it provides the protections patients need.

If the Majority Leader will stop abusing the rules of the Senate and allow this debate to proceed, I believe that the Senate will pass strong reforms that will be signed into law by the President. The American people deserve real reform, and I believe that when the Senate votes in the clear light of day, it will give the American people the reforms they deserve. This issue is a test of the Senate's willingness to put a higher priority on the needs of families than on the profits of special interests. And it is time for the Senate to act.

The choice is clear. The Senate should stand with patients, families, and physicians, not with the well-heeled special interests that put profits ahead of patients.

The American people know what's going on. Movie audiences across the country erupt in cheers when actress Helen Hunt attacks the abuses of managed care in the film ''As Good As It Gets.'' Helen Hunt won an Oscar for that performance, but managed care isn't winning any Oscars from the American people. Everyone knows that managed care today is not ''as good as it gets.''

Too often, managed care is mismanaged care. No amount of distortions or smokescreens by insurance companies can change the facts. The Patients' Bill of Rights can stop these abuses. Let's pass it now, before more patients have to suffer.

I thank the Chair. I thank the Senator.

U.S. FOREIGN OIL CONSUMPTION FOR WEEK ENDING SEPTEMBER 25

Mr. HELMS. Mr. President, the American Petroleum Institute reports, for the week ending September 25, that the U.S. imported 9,953,000 barrels of oil each day, 1,691,000 barrels a day more than the 8,262,000 imported during the same week a year ago.

Americans relied on foreign oil for 54.6 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 9,953,000 barrels a day at a cost of approximately $132,175,840 a day.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, September 30, 1998, the federal debt stood at $5,526,193,008,897.62 (Five trillion, five hundred twenty-six billion, one hundred ninety-three million, eight thousand, eight hundred ninety-seven dollars and sixty-two cents).

One year ago, September 30, 1997, the federal debt stood at $5,413,146,000,000 (Five trillion, four hundred thirteen billion, one hundred forty-six million).

Five years ago, September 30, 1993, the federal debt stood at $4,411,488,000,000 (Four trillion, four hundred eleven billion, four hundred eighty-eight million).

Ten years ago, September 30, 1988, the federal debt stood at $2,602,338,000,000 (Two trillion, six hundred two billion, three hundred thirty-eight million).

Fifteen years ago, September 30, 1983, the federal debt stood at $1,377,210,000,000 (One trillion, three hundred seventy-seven billion, two hundred ten million) which reflects a debt increase of more than $4 trillion—$4,148,983,008,897.62 (Four trillion, one hundred forty-eight billion, nine hundred eighty-three million, eight thousand, eight hundred ninety-seven dollars and sixty-two cents) during the past 15 years.

MAJOR GENERAL WILLIAM F. MOORE, USAF

Mr. LEVIN. Mr. President, I wanted to take the opportunity to bring to the attention of the Senate the outstanding and continuing service of a fine Air Force officer, General William F. Moore, USAF.

For almost three years, General Moore has served as Director of Special Programs in the Office of the Secretary of Defense. In this capacity, he was responsible for coordinating planning, budgeting, and management of very sensitive Department of Defense special access classified programs.

In fulfilling these duties, General Moore has had frequent contact with the leadership and members of the defense oversight committees in Congress. I believe that General Moore has executed these duties in an exemplary manner. General Moore always operated in a very forthcoming manner, was sensitive to the needs of Congressional oversight committee members, and made great strides in improving the Congressional understanding and coordination of special access programs. I would point out that our former colleague, Secretary of Defense

Bill Cohen, also recognized this track record by awarding General Moore the Defense Distinguished Service Medal.

General Moore also had a distinguished career in the Air Force before coming to that position. Among his many assignments, he has served as the Program Executive Officer for Bombers, Missiles, and Trainers within the Office of the Assistant Secretary of the Air Force for Acquisition; as the System Program Director for the Small ICBM; and in various positions with the Advanced Medium Range Air-to-air Missile (AMRRAM), Peacekeeper Missile, and Drone and Remotely Piloted Vehicles programs.

General Moore is a graduate of the Air Force Academy, the Air War College, and the Defense Systems Management College. He also took an M.B.A. degree from the Wharton School of Finance and Commerce at the University of Pennsylvania.

General Moore has been recently named as Deputy Director of the Defense Threat Reduction Agency, a very important position. There is no doubt in my mind that General Moore will be as diligent a steward in his new position as he has been as Director of Special Programs. We are all fortunate to have a man of his professionalism and ability in these positions, and I want to thank him both for his many years of service and wish him every continued future success.

POLITICAL DEVELOPMENTS IN MALAYSIA

Mr. THOMAS. Mr. President, I rise today as chairman of the Subcommittee on East Asian and Pacific Affairs to express my deep concern over the recent alarming political developments in Malaysia.

On September 2, Prime Minister Mahathir fired Deputy Prime Minister Dato Seri Anwar Ibrahim, his handpicked heir apparent. In the past few months, as the value of the ringgit has dropped more than 60 percent against the US dollar and as the economy has shown increasing signs of going the way of its surrounding Asian neighbors', Dato Seri Anwar has been arguing with increasing frequency that the country needs to adopt meaningful economic structural reforms. This has run counter to Mahathir's insistence that the root of the country's economic ills lies solely at the feet of George Soros, and that by fixing the ringgit's convertibility and taking other similarly isolationist measures.

This difference of economic opinion began to grow into a larger rift between the two politicians as Dato Seri Anwar began touring the country and speaking publicly. Apparently, Mahathir felt threatened both by Dato Seri Anwar's views and his popularity as a focus for growing anti-Mahathir dissent, and dismissed him from his post. That didn't stop Dato Seri Anwar from continuing to express himself. As a result, Dato Seri Anwar was arrested on September 20 and held under the provisions of the Internal Security Act (ISA).

The ISA removes arrested individuals from the protections afforded criminal defendants under Malaysia's constitution and statutes, and consequently Dato Seri Anwar was held in an undisclosed location without any formal charges being lodged against him. On September 29, however, he was hauled into court and charged with nine counts of corruption and sexual misconduct, including four sodomy counts. The nature of the charges, as well as the vagueness of them and the fact that several of the ''witnesses'' have already recanted, clearly indicates to me that they were concocted by the government for maximum shock value to discredit Dato Seri Anwar in a conservative Muslim country.

More shocking to me, however, is the condition in which Dato Seri Anwar appeared at his arraignment. He had clearly been beaten while in custody. He told the judge that on his first night of detention, while handcuffed and blindfolded, that he was ''boxed very hard on my head and lower jaw and left eye . . . I was then slapped very hard, left and right, until blood came out from my nose and my lips cracked. Because of this I could not walk or see properly.'' To substantiate his claims, Dato Seri Anwar then showed the court a large bruise on his arm; his black eye was already evident to everyone in the courtroom. He has not been allowed any medical treatment for his injuries. Dr. Mahathir's contention yesterday that Dato Seri Anwar inflicted the injuries to himself in order to gain a public relations coup is so absurd, so ludicrous, that it simply confirms in my mind the veracity of Dato Seri Anwar's contentions.

Mr. President, Dr. Mahathir prides himself on having transformed Malaysia from a divided multi-racial developing nation into a model of a modern, cosmopolitan, economically sophisticated country, and not without some justification. He also prides himself on being the self-appointed forward-thinking spokesman for Asian values and upholder of Asian independence from Western ''interference.'' But in my opinion by his actions in the case of Dato Seri Anwar, he negates much of the progress Malaysia has made in the eyes of the rest of the world. And on a personal level, he has sadly shown himself to be just another third-world despot intent on stifling any dissent, challenge to his authority, or deviation from the party line.

Mr. President, I call on the Malaysian government to take every step to safeguard the rights of Dato Seri Anwar, ensure that any charges brought against him are not spurious, afford him a fair and open trial, and fully investigate and prosecute those responsible for his mistreatment while in detention. I hope that all Malaysians will be permitted to express their political views in a peaceful and orderly fashion without fear of arrest or intimidation, and that the government will avoid the perception that Malaysia is looking more and more like Burma and less and less like a democracy.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 11:45 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2187. An act to designate the United States Courthouse located at 40 Foley Square in New York, New York, as the ''Thurgood Marshall United States Courthouse.''

H.R. 2327. An act to provide for a change in the exemption from the child labor provisions of the Fair Labor Standards Act of 1938 for minors who are 17 years of age and who engaged in the operation of automobiles and trucks.

H.R. 2730. An act to designate the Federal building located at 309 North Church Street in Dyersburg, Tennessee, as the ''Jere Cooper Federal Building.''

H.R. 3598. An act to designate the Federal Building located at 700 East San Antonio Street in El Paso, Texas, as the ''Richard C. White Federal Building.''

H.R. 4081. An act to end the deadline under the Federal Power Act applicable to the construction of a hydroelectric project in the State of Arkansas.

H.R. 4248. An act to authorize the use of receipts from the sale of the Migratory Bird Hunting and Conservation Stamps to promote additional stamp purchases.

H.R. 4257. An act to amend the Fair Labor Standards Act of 1938 to permit certain youth to perform certain work with wood products.

H.R. 4283. An act to support sustainable and broad-based agricultural and rural development in sub-Saharan Africa, and for other purposes.

H.R. 4337. An act to authorize the Secretary of the Interior to provide financial assistance to the State of Maryland for a pilot program to develop measures to eradicate or control nutria and restore marshland damaged by nutria.

H.R. 4595. An act to redesignate the Federal building located at 201 Fourteenth Street Southwest in the District of Columbia as the ''Sidney R. Yates Federal Building.''

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 317. Concurrent resolution expressing the sense of the Congress that Members of Congress should follow the examples

of self-sacrifice and devotion to character displayed by Jacob Chestnut and John Gibson of the United States Capitol Police.

The message further announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 417. An act to extend energy conservation programs under the Energy Policy and Conservation Act through September 30, 2002.

ENROLLED BILLS SIGNED

At 6:28 p.m., a message from the House of Representatives, delivered by one of its reading clerks announced that the Speaker has signed the following bills:

S. 1355. An act to designate the United States courthouse located at 141 Church Street in New Haven, Connecticut, as the ''Richard C. Lee United States Courthouse''.

S. 2071. An act to extend a quarterly financial report program administered by the Secretary of Commerce.

H.R. 3096. An act to correct a provision relating to termination of benefits for convicted persons.

H.R. 4060. An act making appropriations for energy and water development for the fiscal year ending September 30, 1999, and for other purposes.

H.R. 4382. An act to amend the Public Health Service Act to revise and extend the program for mammography quality standards.

The enrolled bills were signed subsequently by the President pro tempore (Mr. THURMOND).

At 6:35 p.m. a message from the House of Representatives, delivered by Mr. Hanrahan, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4658. An act to extend the date by which an automated entry-exit control system must be developed.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on October 1, 1998 he had presented to the President of the United States, the following enrolled bills:

S. 1355. An act to designate the United States courthouse located at 141 Church Street in New Haven, Connecticut, as the Richard C. Lee United States Courthouse.

S. 2071. An act to extend a quarterly financial report program administered by the Secretary of Commerce.

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–7275. A communication from the Assistant Secretary of the Navy (Installations and Environment), Department of the Navy, transmitting, pursuant to law, notice of the Department's decision to study certain functions performed by military and civilian personnel for possible performance by private contractors; to the Committee on Armed Services.

EC–7276. A communication from the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Species; Threatened Status for the Oregon Coast Evolutionarily Significant Unit of Coho Salmon'' (I.D. 063098A) received on September 29, 1998; to the Committee on Environment and Public Works.

EC–7277. A communication from the Assistant General Counsel for Regulations, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''Federal Work Study Programs'' (RIN1840–AC56) received on September 29, 1998; to the Committee on Labor and Human Resources.

EC–7278. A communication from the Chairman of the Federal Energy Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Revision of Fuel Cost Adjustment Clause Regulation Relating to Fuel Purchases From Company-Owned or Controlled Source'' (Docket RM93–24–000) received on September 29, 1998; to the Committee on Energy and Natural Resources.

EC–7279. A communication from the Director of the Office of Surface Mining Reclamation and Enforcement, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Surface Coal Mining and Reclamation Operations On Federal Lands; State-Federal Cooperative Agreements; Kentucky'' (Docket KY–214–FOR) received on September 29, 1998; to the Committee on Energy and Natural Resources.

EC–7280. A communication from the Assistant Secretary for Land and Minerals Management, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Exchanges: General Procedures; State Exchanges; National Park Exchanges; Wildlife Refuge Exchanges; Miscellaneous Exchanges'' (RIN1004–AC58) received on September 29, 1998; to the Committee on Energy and Natural Resources.

EC–7281. A communication from the Assistant Secretary for Land and Minerals Management, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Grazing Administration; Alaska; Livestock'' (RIN1004–AC70) received on September 29, 1998; to the Committee on Energy and Natural Resources.

EC–7282. A communication from the Deputy Assistant Secretary for Land and Minerals Management, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Final Rule Providing Uniform Procedures for Public Availability of Mineral Resources Information'' (RIN1004–AB55) received on September 29, 1998; to the Committee on Energy and Natural Resources.

EC–7283. A communication from the Chief of the Regulations Branch, U.S. Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Removal of Brazil from the List of Nations Entitled to Reciprocal Exemption From the Payment of Special Tonnage Taxes'' (T.D. 98–79) received on September 29, 1998; to the Committee on Finance.

EC–7284. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Medical Savings Accounts'' (Announcement 98–88) received on September 29, 1998; to the Committee on Finance.

EC–7285. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Continuity of Interest'' (RIN1545–AW45) received on September 29, 1998; to the Committee on Finance.

EC–7286. A communication from the General Counsel of the Office of Community Oriented Policing Services, Department of Justice, transmitting, pursuant to law, the report of a rule entitled ''FY 1998 Police Recruitment Program'' (RIN1105–AA58) received on September 29, 1998; to the Committee on the Judiciary.

EC–7287. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule regarding a Carbon Monoxide Redesignation Plan and Emissions Inventory for the New Haven-Merden-Waterbury Area in Connecticut (FRL61667–1) received on September 29, 1998; to the Committee on Environment and Public Works.

EC–7288. A communication from the Director of the Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, a report entitled ''Assessment and Recommendations for Fissile Material Packaging Exemptions and General License Provisions Within 10 CFR Part 71''; to the Committee on Environment and Public Works.

EC–7289. A communication from the Chief of the Programs and Legislation Division, Office of Legislative Liaison, Department of the Air Force, transmitting, pursuant to law, notice of a cost comparison of the base operation support functions at Offutt Air Force Base, Nebraska; to the Committee on Armed Services.

EC–7290. A communication from the Assistant Commissioner for Examination, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Coordinated Issue; Utilities Industry; Capitalization of Costs—Unclassified Labor Costs'' received on September 30, 1998; to the Committee on Finance.

EC–7291. A communication from the Assistant Commissioner for Examination, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Coordinated Issue; Motor Vehicle Industry; Excess Parts Inventory'' received on September 30, 1998; to the Committee on Finance.

EC–7292. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Alder Bark; Exemption from the Requirement of a Tolerance'' (FRL6032–2) received on September 30, 1998; to the Committee on Environment and Public Works.

EC–7293. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans Georgia: Approval of Revisions to the Georgia State Implementation Plan'' (FRL6270–8) received on September 30, 1998; to the Committee on Environment and Public Works.

EC–7294. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''New Source Performance Standards—Applicability of Performance for Coal Preparation Plants to Coal Unloading Operations'' (FRL6168–9) received on September 30, 1998; to the Committee on Environment and Public Works.

EC–7295. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Protection of Stratospheric Ozone: Reconsideration of Petition Criteria and Incorporation of Montreal Protocol Decisions'' (FRL6171–9) received on September 30, 1998; to the Committee on Environment and Public Works.

EC–7296. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Pyridaben; Pesticide Tolerances for Emergency Exemptions'' (FRL6031–5) received on September 30, 1998; to the Committee on Environment and Public Works.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–548. A petition from a citizen of the State of Georgia relative to national efforts to combat lung cancer; to the Committee on Labor and Human Resources.

POM–549. A resolution adopted by the Legislature of the State of Colorado; to the Committee on Governmental Affairs.

SENATE RESOLUTION 98S–004

Whereas, Article I, section 2, clause 3 of the U.S. Constitution requires an ''actual enumeration'' of the population every ten years and entrusts Congress with overseeing all aspects of each decennial census; and

Whereas, The purpose of the enumeration, as set forth in the Constitution, is to apportion the seats in the federal House of Representatives among the several states; and

Whereas, An accurate decennial census is necessary to apportion such seats and to enable states to comply with federal and state constitutional requirements of equal population in legislative districts; and

Whereas, The U.S. Constitution, in order to ensure an accurate count and to minimize the potential for political manipulation, mandates an ''actual enumeration'' of the population, which requires a physical headcount and prohibits statistical guessing or estimates of the population; and

Whereas, Federal law, consistent with this constitutional mandate, expressly prohibits the use of statistical sampling to enumerate the population, and the Federal District Court for the District of Columbia so held in *U.S. House of Representatives* v. *U.S. Department of Commerce, et al.,* Case No. 98–0456; and

Whereas, Every reasonable and practical effort should be made to obtain the fullest and most accurate count possible, including appropriate funding for state and local census outreach and education programs, as well as provision for post-census review; and

Whereas, The U.S. Census Bureau has proposed to use two population-polling techniques in the 2000 decennial census, known as ''sampling for nonresponse follow-up'' and the ''Integrated Coverage Measurement''; now, therefore, be it

Resolved by the Senate of the Sixty-first General Assembly of the State of Colorado:

(1) That the U.S. Census Bureau is requested to conduct the 2000 census consistent with constitutional and statutory mandates, which require a physical headcount of the population and bar the use of statistical sampling to create or adjust the count in any way;

(2) That the Colorado State Senate opposes the use of census number for redistricting that have been determined in whole or in part by the use of sampling techniques or other statistical methodologies that add or subtract persons from the census counts based solely on statistical inference;

(3) That the Colorado State Senate urges Congress, as the branch of government charged with overseeing the decennial census, to take whatever steps are necessary to ensure that the 2000 census is conducted fairly and legally; be it further

Resolved, That a copy of this Resolution be transmitted to the Speaker of the U.S. House of Representatives, the President of the U.S. Senate, the President of the United States, each member of the congressional delegation from Colorado, and James F. Holmes, Acting Director, U.S. Census Bureau.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROTH, from the Committee on Finance, with an amendment in the nature of a substitute and an amendment to the title:

H.R. 3809. A bill to authorize appropriations for the United States Customs Service for fiscal years 1999 and 2000, and for other purposes (Rept. No. 105–359).

By Mr. CHAFEE, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute and an amendment to the title:

S. 555. A bill to amend the Solid Waste Disposal Act to require that at least 85 percent of funds appropriated to the Environmental Protection Agency from the Leaking Underground Storage Tank Trust Fund be distributed to States to carry out cooperative agreements for undertaking corrective action and for enforcement of subtitle I of that Act (Rept. No. 105–360).

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

H.R. 1949. A bill for the relief of Nuratu Olarewaju Abeke Kadiri.

S. Res. 283. A resolution to refer H.R. 998 entitled ''A bill for the relief of Lloyd B. Gamble'' to the chief judge of the United States Court of Federal Claims for a report thereon.

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute and an amendment to the title:

S. 1171. A bill for the relief of Janina Altagracia Castillo-Rojas and her husband, Diogenes Patricio Rojas.

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 1720. A bill to amend title 17, United States Code, to reform the copyright law with respect to satellite retransmissions of broadcast signals, and for other purposes.

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. 1916. A bill for the relief of Marin Turcinovic, and his fiancee, Corina Dechalup.

S. 1926. A bill for the relief of Regine Beatie Edwards.

S. 1961. A bill for the relief of Suchada Kwong.

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 2099. A bill to provide for enhanced Federal sentencing guidelines for counterfeiting offenses, and for other purposes.

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute and an amendment to the title:

S. 2476. A bill for the relief of Wei Jengsheng.

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. 2516. A bill to make improvements in the operation and administration of the Federal courts, and for other purposes.

S. 2524. A bill to codify without substantive change laws related to Patriotic and National Observances, Ceremonies, and Organizations and to improve the United States Code.

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. 2536. An original bill to protect the safety of United States nationals and the interests of the United States at home and abroad, to improve global cooperation and responsiveness to international crime and terrorism, and to more effectively deter international crime and acts of violence.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committees were submitted:

By Mr. CAMPBELL, from the Committee on Indian Affairs:

Montie R. Deer, of Kansas, to be Chairman of the National Indian Gaming Commission for the term of three years.

By Mr. LUGAR, from the Committee on Agriculture, Nutrition, and Forestry:

Michael M. Reyna, of California, to be a Member of the Farm Credit Administration Board, Farm Credit Administration, for a term expiring May 21, 2004.

By Mr. MCCAIN, from the Committee on Commerce, Science, and Transportation:

Robert Clarke Brown, of Ohio, to be a Member of the Board of Directors of the Metropolitan Washington Airports Authority for a term expiring November 22, 1999.

John Paul Hammerschmidt, of Arkansas, to be a Member of the Board of Directors of the Metropolitan Washington Airports Authority for a term of four years. (New Position)

Norman Y. Mineta, of California, to be a Member of the Board of Directors of the Metropolitan Washington Airports Authority for a term of six years. (New Position)

Eugene A. Conti, Jr., of Maryland, to be an Assistant Secretary of Transportation.

Peter J. Basso, Jr., of Maryland, to be an Assistant Secretary of Transportation.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

The following named officers for appointment in the United States Coast Guard to the grade indicated under title 14, U.S.C., section 271:

To be rear admiral (lower half)

Capt. Robert C. Olsen, Jr., 4781
Capt. Robert D. Sirois, 8309
Capt. Patrick M. Stillman, 0193
Capt. Ronald F. Silva, 1219
Capt. David R. Nicholson, 0216

The following named officers for appointment in the United States Coast Guard to the grade indicated under title 14, U.S.C., section 271:

To be rear admiral

Rear Adm. (lh) Thomas J. Barrett, 7105
Rear Adm. (lh) James D. Hull, 9426
Rear Adm. (lh) George N. Naccara, 7780
Rear Adm. (lh) Terry M. Cross, 4308

Mr. MCCAIN. Madam President, for the Committtee on Commerce, Science, and Transportation, I also report favorably four nomination lists in the Coast Guard which were printed in full in the RECORDS of September 3, 1998, September 16, 1998 and September 29, 1998, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

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

(The nominations ordered to lie on the Secretary's desk were printed in the RECORDS of September 3, 1998, September 16, 1998 and September 29, 1998, at the end of the Senate proceedings.)

In the Coast Guard nomination of Joseph E. Vorbach, which was received by the Senate and appeared in the Congressional Record of September 3, 1998

In the Coast Guard nominations beginning John H. Siemens, and ending David M. Illuminate, which nominations were received by the Senate and appeared in the Congressional Record of September 16, 1998

In the Coast Guard nomination of Richelle L. Johnson, which was received by the Senate and appeared in the Congressional Record of September 29, 1998

In the Coast Guard nominations beginning Robert J. Fuller, and ending John B. McDermott, which nominations were received by the Senate and appeared in the Congressional Record of September 29, 1998

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. BREAUX (for himself and Mr. MACK):

S. 2535. A bill to prohibit the Secretary of the Treasury from issuing regulations dealing with hybrid transactions; to the Committee on Finance.

By Mr. HATCH:

S. 2536. An original bill to protect the safety of United States nationals and the interests of the United States at home and abroad, to improve global cooperation and responsiveness to international crime and terrorism, and to more effectively deter international crime and acts of violence; from the Committee on the Judiciary; placed on the calendar.

By Mr. MURKOWSKI:

S. 2537. A bill to amend the Export-Import Bank Act of 1945 to assure that the United States is consistent with other G-7 countries in evaluating environmental concerns relating to projects to be financed, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BREAUX:

S. 2538. A bill to amend the Internal Revenue Code of 1986 to modify the active business definition relating to distributions of stock and securities of controlled corporations; to the Committee on Finance.

By Ms. SNOWE (for herself, Mr. TORRICELLI, Mr. FORD, and Mr. GORTON):

S. 2539. A bill to authorize and facilitate a program to enhance training, research and development, energy conservation and efficiency, and consumer education in the oilheat industry for the benefit of oilheat consumers and the public, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. ABRAHAM (for himself, Mr. KENNEDY, Ms. COLLINS, Mr. LEAHY, Mr. D'AMATO, and Mr. MOYNIHAN):

S. 2540. A bill to extend the date by which an automated entry-exit control system must be developed; considered and passed.

By Mr. DASCHLE (for Mr. GLENN (for himself, Mr. THOMPSON, Ms. COLLINS, Mr. LEVIN, Mr. DURBIN, Mr. CLELAND, and Mr. LIEBERMAN)):

S.J. Res. 58. A joint resolution recognizing the accomplishments of Inspector Generals since their creation in 1978 in preventing and detecting waste, fraud, abuse, and mismanagement, and in promoting economy, efficiency, and effectiveness in the Federal Government; considered and passed.

By Mr. GRAMM:

S.J. Res. 59. A joint resolution to provide for a Balanced Budget Constitutional Amendment that prohibits the use of Social Security surpluses to achieve compliance; read the first time.

S.J. Res. 60. A joint resolution to provide for a Balanced Budget Constitutional Amendment that prohibits the use of Social Security surpluses to achieve compliance; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LEVIN:

S. Con. Res. 122. A concurrent resolution expressing the sense of Congress that the 65th anniversary of the Ukrainian Famine of 1932–1933 should serve as a reminder of the brutality of the government of the former Soviet Union's repressive policies toward the Ukrainian people; to the Committee on Foreign Relations.

By Mr. MCCAIN (for himself, Mr. KYL, Mr. CRAIG, and Mr. LOTT):

S. Con. Res. 123. A concurrent resolution to express the sense of the Congress regarding the policy of the Forest Service toward recreational shooting and archery ranges on Federal land; to the Committee on Energy and Natural Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BREAUX (for himself and Mr. MACK):

S. 2535. A bill to prohibit the Secretary of the Treasury from issuing regulations dealing with hybrid transactions; to the Committee on Finance.

SUBPART F OF INTERNAL REVENUE CODE

• Mr. BREAUX. Mr. President, today Mr. MACK and I are introducing legislation to place a permanent moratorium on the Department of the Treasury's authority to finalize any proposed regulations issued pursuant to Notice 98–35, dealing with the treatment of hybrid branch transactions under subpart F of the Internal Revenue Code. It also prohibits Treasury from issuing new regulations relating to the tax treatment of hybrid transactions under subpart F and requires the Secretary to conduct a study of the tax treatment of hybrid transactions and to provide a written report to the Senate Committee on Finance and the House Committee on Ways and Means.

By way of background, the United States generally subjects U.S. citizens and corporations to current taxation on their worldwide income. Two important devices mitigate or eliminate double taxation of income earned from foreign sources. First, bilateral income tax treaties with many countries exempt American taxpayers from paying foreign taxes on certain types of income (e.g. interest) and impose reduced rates of tax on other types (e.g. dividends and royalties). Second, U.S. taxpayers receive a credit against U.S. taxes for foreign taxes paid on foreign source income. To reiterate, these devices have been part of our international tax rules for decades and are aimed at preventing U.S. businesses from being taxed twice on the same income. The policy of currently taxing U.S. citizens on their worldwide income is in direct contrast with the regimes employed by most of our foreign trading competitors. Generally they tax their citizens and domestic corporations only on the income earned within their borders (the so-called ''water's edge'' approach).

Foreign corporations generally are also not subject to U.S. tax on income earned outside the United States, even if the foreign corporation is controlled by a U.S. parent. Thus, U.S. tax on income earned by foreign subsidiaries of U.S. companies—that is, from foreign operations conducted through a controlled foreign corporation (CFC)—is generally deferred until dividends paid by the CFC are received by its U.S. parent. This policy is referred to as ''tax deferral.''

In 1961, President John F. Kennedy proposed eliminating tax deferral with respect to the earnings of U.S.-controlled foreign subsidiaries. The proposal provided that U.S. corporations would be currently taxable on their share of the earnings of CFCs, except in the case of investments in certain ''less developed countries.'' The business community strongly opposed the proposal, arguing that in order for U.S. multinational companies to be able to compete effectively in global markets, their CFCs should be subject only to the same taxes to which their foreign competitors were subject.

In the Revenue Act of 1962, Congress rejected the President's proposal to completely eliminate tax deferral, recognizing that to do so would place U.S. companies operating in overseas markets at a significant disadvantage vis-a-vis their foreign competitors. Instead, Congress opted to adopt a policy regime designed to end deferral only with respect to income earned from so-called ''tax haven'' operations. This regime, known as ''subpart F,'' generally is aimed at currently taxing foreign source income that is easily moveable from one taxing jurisdiction to another and that is subject to low rates of foreign tax.

Thus, the subpart F provisions of the Internal Revenue Code (found in sections 951–964) have always reflected a balancing of two competing policy objectives: capital export neutrality (i.e. neutrality of taxation as between domestic and foreign operations) and capital import neutrality (i.e. neutrality of taxation as between CFCs and their foreign competitors). While these competing principles continue to form the foundation of subpart F today, recent actions by the Department of the Treasury threaten to upset this longstanding balance.

On January 16, 1998, the Department of the Treasury announced in Notice

98–1l its intention to issue regulations to prevent the use of hybrid branches ''to circumvent the purposes of subpart F.'' The hybrid branch arrangements identified in Notice 98–11 involved entities characterized for U.S. tax purposes as part of a controlled foreign corporation, but characterized for purposes of the tax law of the country in which the CFC was incorporated as a separate entity. The Notice indicated that the creation of such hybrid branches was facilitated by the entity classification rules contained in section 301.7701–I through –3 of the income Tax Regulations (the ''check the box'' regulations).

Notice 98–11 acknowledged that U.S. international tax policy seeks to balance the objectives of capital export neutrality with the objective of allowing U.S. businesses to compete on a level playing field with foreign competitors. In the view of the Treasury and IRS, however, the hybrid transactions attacked in the Notice ''upset that balance.'' Treasury indicated that the regulations to be issued generally would apply to hybrid branch arrangements entered into or substantially modified after January 16, 1998, and would provide that certain payments to and from foreign hybrid branches of CFCs would be treated as generating subpart F income to U.S. shareholders in situations in which subpart F would not otherwise apply to a hybrid branch as a separate entity. This represented a significant expansion of subpart F, by regulation rather than through legislation.

Shortly after Notice 98–11 was issued, the Administration released its Fiscal Year 1999 budget proposals which, among other things, included a provision requesting Congress to statutorily grant broad regulatory authority to the Treasury Secretary to prescribe regulations clarifying the tax consequences of hybrid transactions in cases in which the intended results are inconsistent with the purposes of U.S. tax law. . . .'' While the explanation accompanying the budget proposal argued that this grant of authority as applied to many cases ''merely makes the Secretary's current general regulatory authority more specific, and directs the Secretary to promulgate regulations pursuant to such authority,'' the explanation conceded that in other cases, ''the Secretary's authority may be questioned and should be clarified.''

Notice 98–11 and the accompanying budget proposal generated widespread concerns in the Congress and the business community that the Treasury was undertaking a major new initiative in the international tax arena that would undermine the ability of U.S. multinationals to compete in international markets. For example, House Ways and Means Committee Chairman BILL ARCHER wrote to Treasury Secretary Rubin on March 20, 1998 requesting that ''Notice 98–11 be withdrawn and that no regulations in this area be issued or allowed to take effect until Congress has an appropriate opportunity, to consider these matters in the normal legislative process.'' The Ranking Democrat on the Committee, CHARLES RANGEL, wrote to Secretary Rubin expressing strong concerns about the Treasury's increasing propensity to ''legislate through the regulatory process as evidenced by Notice 98–11.

Despite these concerns, on March 23, 1998, the Treasury department issued two sets of proposed and temporary regulations, the first relating to the treatment of hybrid branch arrangements under subpart F, and the second relating to the treatment of a CFC's distributive share of partnership income. As Notice 98–1l had promised, the regulations provided that certain payments between a controlled foreign corporation and a hybrid branch would be recharacterized as subpart F income if the payments reduce the payer's foreign taxes.

The week after the temporary and proposed regulations were issued, the Senate Finance Committee considered H.R. 2676, the Internal Revenue Service Restructuring and Reform Act of 1998. A provision was included in the bill prohibiting the Treasury and IRS from implementing temporary or final regulations with respect to Notice 98–11 prior to six months after the date of enactment of H.R. 2676. The Senate bill also included language expressing the ''sense of the Senate'' that ''the Department of the Treasury and the Internal Revenue Service should withdraw Notice 98–11 and the regulations issued thereunder, and that the Congress, and not the Department of the treasury or the Internal Revenue Service, should determine the international tax policy issues relating to the treatment of hybrid transactions under subpart F provisions of the Code.''

Opposition to Notice 98–11 and the temporary and proposed regulations continued to mount. On April 23, 1998, 33 Members of the House Ways and Means Committee wrote to Secretary Rubin expressing concern about the Treasury's decision to move forward and issue regulations pursuant to Notice 98–11 without an appropriate opportunity for Congress to consider this issue in the normal legislative process, urging Treasury to withdraw the regulations.

In the face of these and other pressures from the Congress and the business community, on June 19, 1998, the Treasury Department announced in Notice 98–35 that it was withdrawing Notice 98–1l and the related temporary, and proposed regulations. According to Notice 98–35, Treasury intends to issue a new set of proposed regulations to be effective in general for payments made under hybrid branch arrangements on or after June 19, 1998. These regulations, however, will not be finalized before January 1, 2000, in order to permit both the Congress and Treasury Department the opportunity to further study the issues that were raised following the publication of Notice 98–1l earlier this year.

While we applaud the Treasury's decision to withdraw Notice 98–1l and the temporary regulations, we believe that additional legislative action is needed to prevent the Treasury from finalizing the forthcoming regulations until Congress considers the issues involved. We believe that only the Congress has the authority to achieve a permanent resolution of this issue. Notice 98–35, like its predecessor, Notice 98–1l continues to suffer from a fatal flaw; it is the prerogative of Congress, and not the Executive Branch, to pass laws establishing the nation's fundamental tax policies. Simply put, Notice 98–35 adds restrictions to the subpart F regime that are not supported by the Code's clear statutory language, and there has been no express delegation of regulatory authority to the Treasury that relates specifically to the issues presented in the Notice.

More importantly, we question the policy objectives to be achieved by Notice 98–35 and the accompanying proposed regulations. We do not understand the rationale for penalizing U.S. multinational companies for employing normal tax planning strategies that reduce foreign (as opposed to U.S.) income taxes. Moreover, Notice 98–35 is contrary to recent Congressional efforts to simplify the international tax provisions of the Code. For example, the Congress reduced complexity and ridded the code of a perverse incentive for U.S. companies to invest overseas by repealing the Section 956A tax on excess passive earnings in 1996. Again in 1997, the Congress repealed the application of the Passive Foreign Investment Company regime to U.S. shareholders of controlled foreign corporations because of the complexity involved in applying both regimes, in addition to enacting a host of other foreign tax simplifications. Therefore, in order for Congress to gain a better understanding of the Treasury Department's position on this matter, our bill would require the Treasury to conduct a thorough study of the tax treatment of hybrid transactions under subpart F and to provide a report to the Senate Committee on Finance and House Committee on Ways and Means on this issue.

If the forthcoming regulations are permitted to be finalized by the Treasury, U S multinational businesses will be placed at a competitive disadvantage vis-a-vis foreign companies who remain free to employ strategies to reduce the foreign taxes they pay. Clearly, such a result should be permitted to take effect only if Congress, after having an opportunity to fully consider all of the tax and economic issues involved, agrees that the arguments advanced by the Treasury are compelling and determines that additional statutory changes to subpart F are necessary and appropriate.

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. 2535

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. HYBRID TRANSACTIONS UNDER SUBPART F.

(a) PROHIBITION ON REGULATIONS.—The Secretary of the Treasury (or his delegate)—

(1) shall not issue temporary or final regulations relating to the treatment of hybrid transactions under subpart F of part III of subchapter N of chapter 1 of the Internal Revenue Code of 1986 pursuant to Internal Revenue Service Notice 98–35 or any other regulations reaching the same or similar result as such notice,

(2) shall retroactively withdraw any regulations described in paragraph (1) which were issued after the date of such notice and before the date of the enactment of this Act, and

(3) shall not modify or withdraw sections 301.7701–1 through 301.7701–3 of the Treasury Regulations (relating to the classification of certain business entities) in a manner which alters the treatment of hybrid transactions under such subpart F.

(b) STUDY AND REPORT.—The Secretary of the Treasury (or his delegate) shall study the tax treatment of hybrid transactions under such subpart F and submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate. The Secretary shall hold at least one public hearing to receive comments from any interested party prior to submitting such report.●

● Mr. MACK. Mr. President, today Senator BREAUX and I introduce a bill reaffirming that the lawmaking power is the province of the Congress, not the executive branch. Our bill prohibits the Treasury Department from issuing regulations that would impose taxes on U.S. companies merely because one of their subsidiaries pays money to itself.

As a general rule, U.S. corporations pay U.S. corporate income tax on the earnings of their foreign subsidiaries only when those earnings are actually distributed to the U.S. parent companies. An exception to this general rule is contained in subpart F of the Internal Revenue Code, which accelerates the income tax liability of U.S. parent companies under certain circumstances. The Treasury Department has announced, in Notice 98–35, an intention to issue regulations that will accelerate income tax liability for U.S. companies—not based on the specific circumstances enumerated in subpart F, but instead on a new ''interpretation'' of the ''policies'' that Treasury infers from that 36-year-old provision. This action crosses the line between administering the laws and making the laws, and cannot be allowed by Congress.

Notice 98–35 concerns so-called ''hybrid arrangements.'' These involve business entities that are considered separate corporations for foreign tax purposes, but are viewed as one company with a branch office for U.S. purposes. U.S. companies organize their subsidiaries in this manner to reduce the amount of foreign taxes they owe. Transactions between a subsidiary and its branch have no impact on U.S. taxable income of the parent, as its subsidiary is merely paying money to itself. But the Treasury Department intends to impose a tax on the U.S. parent to penalize it for reducing the foreign taxes it owes.

This effort is wrong for several reasons. First, the Treasury Department possesses only the power to issue regulations to administer the laws passed by Congress. New rules based on congressional purpose are known as laws, and under the Constitution laws are made by Congress.

Second, the Treasury Department is elevating one policy underlying subpart F—taxing domestic and foreign operations in the same manner—over the other policy of maintaining the competitiveness of U.S. companies in foreign markets. This proposed tax would put U.S.-owned subsidiaries at a competitive disadvantage.

Finally, the Treasury Department should not impose a tax on U.S. companies to force these companies to reorganize in a way that increases the taxes they owe to foreign countries. The Treasury Department is not the tax collector for other nations. And by raising the foreign tax bills of U.S. companies, the Treasury Department is also increasing the size of foreign tax credits and thereby reducing U.S. tax revenues.

The Treasury Department is not only making policy that it has no right to make, it is also making bad policy. Our bill places a moratorium on this lawmaking. It also directs the Treasury Secretary to study these issues and submit a report to the tax-writing committees of Congress. Many people and organizations, including the Treasury Department, desire changes in the tax laws. But only Congress has the power to make these changes, and this is a power we intend to keep.●

By Mr. HATCH:

S. 2536. An original bill to protect the safety of United States nationals and the interests of the United States at home and abroad, to improve global cooperation and responsiveness to international crime and terrorism, and to more effectively deter international crime and acts of violence; from the Committee on the Judiciary; placed on the calendar.

THE IMPROVEMENTS TO INTERNATIONAL CRIME AND ANTI-TERRORISM AMENDMENTS OF 1998

Mr. LEAHY. Mr. President, I am pleased with the Chairman in offering this important legislation, the Improvements to International Crime and Anti-Terrorism Amendments of 1998, to combat international crime.

Crime and terrorism increasingly have an international face. The bombings of U.S. embassies in Kenya and Tanzania are just the most recent reminders of how vulnerable we are to terrorist attacks. In a shockingly brutal attack, more than 250 men, women and children, were murdered in cold blood. Among those 250 victims were 12 of our fellow citizens. And none of us can forget that it was only a short time ago that there was another assault right here at home, in the Capitol itself.

With improvements in technology, criminals now can move about the world with ease. They can transfer funds with a push of a button, or use computers and credit card numbers to steal from American citizens from any spot on the globe. They can strike at Americans here and abroad. The playing field keeps changing, and we need to change with it.

This bill does exactly that, not with sweeping changes but with thoughtful provisions carefully targeted at specific problems faced by law enforcement. The bill offers tools and protection to investigators and prosecutors, while narrowing the room for maneuver that international criminals and terrorists now enjoy.

I initially introduced some of the provisions of this bill as early as April 30, 1998, in the Money Laundering Enforcement and Combating Drugs Act in Prisons of 1998 with Senators DASCHLE, KOHL, FEINSTEIN, and CLELAND. Again, on July 14, 1998, I introduced with Senator BIDEN many of these provisions set forth in the bill on behalf of the Administration in S. 2303, the International Crime Control Act of 1998. I again included almost all of the provisions in another major anti-crime bill, the Safe Schools, Safe Streets, and Secure Borders Act of 1998, on September 16, 1998, along with Senators DASCHLE, BIDEN, MOSELEY-BRAUN, KENNEDY, KERRY, LAUTENBERG, MIKULSKI, BINGAMAN, REID, MURRAY, DORGAN, and TORRICELLI.

It is a particular pleasure now to be able to draw from these more comprehensive bills a set of discrete, very important improvements that can enjoy bipartisan support, and which I hope and trust can be enacted into law, even in the short time remaining in this session. All of these provisions enjoy the full support of the Administration, and each of them is a law enforcement priority.

The bill would criminalize murder and other serious crimes committed by organized crime against U.S. nationals abroad, and against state and local officials who are working abroad with federal authorities on joint projects or operations.

The bill also protects our maritime borders by providing realistic sanctions for vessels that fail to ''heave to'' or otherwise obstruct the Coast Guard. No longer will drug-runners be able to stall or resist Coast Guard commands with impunity.

The bill also increases our authority to exclude from entry into our country international criminals and terrorists, including those engaged in flight to avoid prosecution, alien smuggling, or arms or drug trafficking under specific circumstances. At the same time, we ensure that the Attorney General has

full authority to make exceptions for humanitarian and similar reasons.

The bill includes important money laundering provisions. At a recent Judiciary Committee hearing on anti-terrorism, FBI Director Louis Freeh noted the importance of money laundering laws as a tool in stopping not only international drug kingpins, but also international terrorists, such as Usama bin Laden, the multi-millionaire terrorist who has been linked to the recent embassy bombings.

The bill has two important provisions aimed at computer crimes: it provides expanded wiretap authority, subject to court order, to cover computer crimes, and also gives us extraterritorial jurisdiction over access device fraud, such as stealing telephone credit card numbers, where the victim of the fraud is within the U.S.

We cannot do it all alone, however. This bill facilitates international cooperation by allowing our country to share the proceeds of joint forfeiture operations, to encourage participation by those countries. It streamlines procedures for executing MLAT requests that apply to multiple judicial districts. Furthermore, the bill addresses the essential but often overlooked role of state and local law enforcement in combating international crime, and authorizes reimbursement of state and local authorities for their cooperation in international crime cases. The bill helps our prosecutors in international crime cases by facilitating the admission of foreign records in U.S. courts. Finally, the bill would speed the wheels of justice by prohibiting international criminals from being credited with any time they serve abroad while they fight extradition to face charges in our country.

These are important provisions that I have advocated for some time. They are helpful, solid law enforcement provisions. I must close with a special thanks to my friend and colleague from Utah, Senator HATCH, for his help in making this bill a reality. It has been pleasure to work closely with him to craft a bipartisan bill that will accomplish what all of us want, to make America a safer and more secure place.

By Mr. MURKOWSKI:

S. 2537. A bill to amend the Export-Import Bank Act of 1945 to assure that the United States is consistent with other G–7 countries in evaluating environmental concerns relating to projects to be financed, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

EXPORT-IMPORT BANK ACT AMENDMENTS

Mr. MURKOWSKI. Mr. President, I rise to introduce legislation regarding the Export-Import Bank. This legislation is both pro-trade and pro-environment.

Let me start by saying that I support U.S. international finance institutions like Ex-Im Bank, OPIC and TDA because they are necessary to level the playing field for American companies seeking to compete abroad. In a perfect world, such government assistance would be unnecessary, but we know that the other industrialized countries are using government financing to sweeten the pot for their companies' participation in international projects.

My legislation addresses the well-meaning environmental policies of the Bank that are actually harming the environment while undermining American competitiveness. Specifically, my legislation does two things: First, it directs the Ex-Im Bank to negotiate a mulitlateral agreement with the export financing agencies of all G–7 countries to address environmentally sensitive development overseas. Second, until such agreement is reached, my legislation would allow U.S. companies to compete on equal footing with other international companies bidding on international projects. In other words, my legislation would ensure that American companies have access to Ex-Im Bank financing for overseas projects where other G–7 countries are providing or have indicated an intent to provide financing to the project in question without conditioning such assistance on environmental policies or procedures.

Mr. President, under current law, the Ex-Im Bank can deny financing to U.S. companies seeking to participate in international projects when the Bank's environmental concerns have not been adequately addressed by foreign countries. But there is no mechanism in place to ensure that all G–7 countries abide by the same set of rules or environmental standards in competing for such projects. The net effect of this law is to impose unilateral sanctions on U.S. companies in the name of the environment.

The lack of American participation in the largest hydroelectric project in the World, the $24.5 billion Three Gorges Dam Project in China, illustrates why this change in law is necessary. The mission of the Ex-Im Bank is to promote U.S. exports and U.S. jobs. Yet, the Bank refused to provide financial guarantees for this project because the Bank's environmental concerns had not been satisfactorily addressed by the Chinese government.

There were two perverse outcomes from the Bank's decision. First, the project is going ahead anyway without the environmental technologies and practices our companies' participation would bring. And second, the only American participation is by companies that are large enough to use their foreign subsidiaries with another government's financing, and consequently the jobs are going to the Japanese, the Canadians and the Europeans.

A letter that I received from the President of Rotec Industries, located in Elmhurst, Illinois, explains the detrimental effects of the Ex-Im Banks decision. Rotec submitted a bid to the Chinese government for $130 million of U.S.-made concrete placing and transporting equipment. Following the Ex-Im Bank's negative decision they received an order for only a fraction of their proposal. A Japanese-French consortium received an order for ''Rotec-equivalent'' equipment. But it gets worse. As Rotec's president explained:

> No Ex-Im financing meant no made-in-the-USA requirements and no made-in-the-USA price premium . . . For the first time in our 32-year history, Rotec subcontracted manufacturing to companies in South Korea. The effect on U.S. jobs is easy to quantify . . . Rotec will have spent over $13,000,000 in South Korea. With Ex-Im's support, this work—and probably more—would have stayed in the United States.

But this was not the only bad news for Rotec. Before Ex-Im's decision, Rotec was the world's only manufacturer of this specialized equipment. But the Japanese-French consortium selected by the Chinese have now copied Rotec's product. As Rotec's president described it, Ex-Im's decision helped open the door and they [the consortium] walked right in. Rotec will likely face foreign competition wherever this product is needed.''

Other U.S. companies who sought to participate in the Three Gorges Dam project tell a similar story. Caterpillar estimates that it lost $200 million in sales. GE routed its bid through its Canadian subsidiary. Voight Hydro of Pennsylvania had to withdraw its bid in favor of its German parent, which won $85 million of contracts.

Although my legislation cannot retroactively change the effect of the Ex-Im Bank's decision on U.S. participation in the Three Gorges Dam project, we will face this issue again. A recent New York Times story quoted Chinese officials who pledge to spend $1.2 trillion on a vast program of new infrastructure projects over the next three years. Included in those projects are plans to build five large hydroelectric power stations over the next 12 years, at a cost exceeding $7 billion. Although this is small compared to Three Gorges, it presents excellent opportunities for U.S. companies. In addition, the Chinese have plans to order a new nuclear plant each year for the next 20 years. This emerging Chinese market is estimated to be worth $1.65 billion per year in U.S. nuclear exports, supporting an equivalent of 25,400 full time American jobs.

I am told that the environmental lobbyists are out in full force against this legislation. Environmental groups have circulated a letter stating that my legislation would mean that ''[t]he United States Government will likely support dangerous nuclear power plants, unsustainable logging of primary forests, and huge hydroelectric dams resettling millions of people in developing countries with no environmental safeguards allowed.''

Mr. President, let me just respond to their claim that nuclear power plants and hydroelectric dams should not be funded on environmental grounds. China is a case in point. By 2015 China will surpass the United States as the largest emitter of greenhouse gases.

According to the World Health Organization, 6 of the 10 most polluted cities in the world are in China. Coal supplies three-quarters of China's energy and is choking its cities. Already, hundreds of thousands of Chinese die premature deaths each year from chronic respiratory illness. Thousands more died this year from flooding of the Yangtze River and millions more were displaced.

Mr. President, how can the environmentalists ignore the benefits to China's environment, indeed to the World's environment, of helping China turn to cleaner forms of energy such as hydro and nuclear? The 18,200 megawatt Three Gorges Dam will replace the equivalent of thirty-six 500 megawatt coal fossil plants. In a country suffocating on dirty air, how can any rational environmental policy promote coal and penalize clean burning hydro and nuclear power? Of course, hydro and nuclear plants have environmental consequences. Every form of energy production does. Even windmills become cuisinarts for birds. But countries such as China have the right to determine which consequences she can accept.

Let's make sure that Ex-Im does not unilaterally rule out American participation in future projects. Support my legislation and vote to help American companies compete.

Mr. President, I ask unanimous consent that a copy of the Rotec letter be printed in the RECORD.

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

ROTEC INDUSTRIES,
Elmhurst, IL, September 23, 1998.

Hon. FRANK MURKOWSKI,
U.S. Senate,
Washington, DC.

DEAR SENATOR MURKOWSKI: As president of a company which has been involved in the construction of China's Three Gorges Dam, I read your September 16th Washington Post op-ed article, ''Too Green'', with great interest.

Rotec Industries, along with Caterpillar and Voith Hydro, aggressively pursued Ex-Im Bank financing for Three Gorges Dam. Of course, we were disappointed when Ex-Im denied financing. It seemed like the wrong decision for economic, environmental and common-sense reasons.

Your legislation, which would prohibit Ex-Im from withholding financing on environmental grounds where any other G–7 country is providing financing, offers some hope that U.S. businesses and workers will have the support of Ex-Im Bank in future, similar situations.

During the two years since Ex-Im's decision, Rotec has continued to pursue its business at Three Gorges with some successes and with some disappointments. A brief history our Three Gorges events:

January 1996—Rotec submitted a proposal (before Ex-Im's decision) to supply more than $130,000,000 of U.S.-made equipment.

November 1996—Following Ex-Im's negative decision, we received an order for only $31,000,000 of equipment.

December 1996—Japanese-French consortium received an order for ''Rotec-equivalent'' equipment.

May 1998—Rotec received an additional $22,000,000 order.

We do not expect any additional major orders from Three Gorges. Our total is approximately $53,000,000; about 40% of what we had hoped to receive.

It gets worse: Losses for American workers were even greater. During negotiations following Ex-Im's decision, our Chinese customer demanded a price discount because ''Rotec can subcontract manufacturing in China or a third country.'' No Ex-Im financing meant no made-in-the-USA requirements and no made-in-the-USA price premiums. Rotec was literally fighting for its existence; we were facing serious competition from foreign suppliers and Ex-Im would not help. For the first time in our 32-year history, Rotec subcontracted manufacturing to companies in South Korea. The effect on U.S. jobs is easy to quantify: when the last shipment is made at the end of this year, Rotec will have spent over $13,000,000 in South Korea. With Ex-Im's support, this work—and probably more—would have stayed in the United States.

More bad news: Before Ex-Im's decision, Rotec was the world's *only* manufacturer of this specialized equipment. The Japanese-French consortium had copied our concepts on paper, but had never designed, manufactured or sold any similar product. Now they have and Rotec has a new competitor. Ex-Im's decision has helped open the door and they walked right in. Rotec will likely face foreign competition wherever this product is needed.

My environmental ''feelings'': (I have made twelve trips to China during the past three years so this comes mostly from personal observation.) China is a huge country with a very low standard of living—especially in the rural areas. Many people live on mountainsides in hand-dug ''caves''. China's people need energy, improved transportation and the ability to control flooding in order to improve their standard of living.

It seems unfair for the United States or anyone else to tell China they can not develop their rivers, especially when so much can be gained. Building Three Gorges Dam means producing clean electricity with hydro-power, mitigating the effects of flooding and adding navigable stretches to a river in an area with very poor roads. Not building the dam means burning more fossil fuel, further polluting the already-terrible air; continuing floods which kill thousands, violently displacing hundreds-of-thousands or even millions and cause untold property damage for people who have so little; and slowing economic development for people who desperately need it. In this case, building a dam is ''the green decision.''

Your initiation of this measure is supported and appreciated by Rotec. We wish you success.

Sincerely,

STEVE LEDGER,
President, Rotec Industries, Inc.

By Mr. BREAUX:

S. 2538. A bill to amend the Internal Revenue Code of 1986 to modify the active business definition relating to distributions of stock and securities of controlled corporations; to the Committee on Finance.

AMENDMENT TO INTERNAL REVENUE CODE SECTION 355(B)(2)

● Mr. BREAUX. Mr. President, today I introduce a bill that would make a technical change in the Internal Revenue Code. We often talk about the need to simplify the Tax Code. The change I propose today would do that.

This change is small but very important. It would not alter the substance of current law in any way. It would, however, greatly simplify a common corporate transaction. This small technical change will alone save corporations millions of dollars in unnecessary expenses and economic costs that are incurred when they divide their businesses.

The Treasury Department agrees that there is a technical problem with the drafting of the Tax Code. It also agrees that a legislative change like the bill I introduce today is the best way to correct it.

Corporations, and affiliated groups of corporations, often find it advantageous, or even necessary, to separate two or more businesses. The division of AT&T from its local telephone companies is an example of such a transaction. The reasons for these corporate divisions are many, but probably chief among them is the ability of management to focus on one core business.

At the end of the day, when a corporation divides, the stockholders simply have the stock of two corporations, instead of one. The Tax Code recognizes this is not an event that should trigger tax, as it includes corporate divisions among the tax-free reorganization provisions.

One requirement the Tax Code imposes on corporate divisions is very awkwardly drafted, however. As a result, an affiliated group of corporations that wishes to divide must often engage in complex and burdensome preliminary reorganizations in order to accomplish what, for a single corporate entity, would be a rather simple and straightforward spinoff of a business to its shareholders. The small technical change I propose today would eliminate the need for these unnecessary transactions, while keeping the statute true to Congress' original purpose.

More specifically, section 355 (and related provisions of the Code) permits a corporation or an affiliated group of corporations to divide on a tax-free basis into two or more separate entities with separate businesses. There are numerous requirements for tax-free treatment of a corporate division, or ''spinoff,'' including continuity of historical shareholder interest, continuity of the business enterprises, business purpose, and absence of any device to distribute earnings and profits. In addition, section 355 requires that each of the divided corporate entities be engaged in the active conduct of a trade or business. The proposed change would alter none of these substantive requirements of the Code.

Section 355(b)(2)(A) currently provides an attribution or ''lookthrough'' rule for groups of corporations that operate active businesses under a holding company, which is necessary because a holding company, by definition, is not itself engaged in an active business. This lookthrough rule inexplicably requires, however, that ''substantially

all'' of the assets of the holding company consist of stock of active controlled subsidiaries. The practical effect of this language is to prevent holding companies from engaging in spinoffs if they own almost any other assets. This is in sharp contrast to corporations that operate businesses directly, which can own substantial assets unrelated to the business and still engage in tax-free spinoff transactions.

In the real world, of course, holding companies may, for many sound business reasons, hold other assets, such as noncontrolling (less than 80 percent) interests in subsidiaries, controlled subsidiaries that have been owned for less than five years (which are not considered ''active businesses'' under section 355), or a host of nonbusiness assets. Such holding companies routinely undertake spinoff transactions, but because of the awkward language used in section 355(b)(2)A), they must first undertake one or more (often a series of) preliminary reorganizations solely for the purpose of complying with this inexplicable language of the Code.

Such preliminary reorganizations are at best costly, burdensome, and without any business purpose, and at worst, they seriously interfere with business operations. In a few cases, they may be so costly as to be prohibitive, and cause the company to abandon an otherwise sound business transaction that is clearly in the best interest of the corporation and the businesses it operates.

There is no tax policy reason, tax advisors agree, to require the reorganization of a consolidated group that is clearly engaged in the active conduct of a trade or business, as a condition to a spinoff. Nor is there any reason to treat affiliated groups differently than single operating companies. Indeed, no one has ever suggested one. The legislative history indicates Congress was concerned about noncontrolled subsidiaries, which is elsewhere adequately addressed, not consolidated groups.

For many purposes, the Tax Code treats affiliated groups as a single corporation. Therefore, the simple remedy I am proposing today for the problem created by the awkward language of section 355(b)(2)(A) is to apply the active business test to an affiliated group as if it were a single entity.

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. 2538

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MODIFICATION OF ACTIVE BUSINESS DEFINITION.

(a) IN GENERAL.—Section 355(b)(2) of the Internal Revenue Code of 1986 (defining active conduct of a trade or business) is amended by adding at the end the following: ''For purposes of subparagraph (A), all corporations that are members of the same affiliated group (as defined in section 1504(a)) shall be treated as a single corporation.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions or transfers after the date of the enactment of this Act.●

By Mr. GRAMM:

S.J. Res. 59. A joint resolution to provide for a Balanced Budget Constitutional Amendment that prohibits the use of Social Security surpluses to achieve compliance; read the first time.

BALANCED BUDGET CONSTITUTIONAL AMENDMENT

Mr. GRAMM. Mr. President, I rise today to introduce a Balanced Budget Constitutional Amendment which is designed to protect Social Security. Since we last considered a balanced budget amendment in the Senate, we have achieved balance in the unified federal budget for the first time in 30 years, and have made substantial progress toward achieving balance without relying on the surpluses currently accumulating in Social Security. For 1998, the most recent projections by the Congressional Budget Office show a unified budget surplus of $63 billion, and an on-budget deficit of just $41 billion when the $104 billion surplus in Social Security is not counted. This on-budget deficit is projected to disappear by 2002 under current budget policies.

The Balanced Budget Constitutional Amendment I am introducing today is identical to S.J. Res. 1, which received 66 votes in the Senate on March 4, 1997, except that surplus revenues in Social Security are not counted in determining compliance. It is also identical to the Dorgan substitute and Reid perfecting amendments to S.J. Res. 1, which received 41 and 44 votes respectively, except that while Social Security surpluses are not counted, any deficit in Social Security must be offset by an equivalent on-budget surplus. This distinction is important because Social Security is projected to begin running cash-flow deficits in the year 2013.

The President and a majority of Congress have expressed support for balancing the budget without counting Social Security surpluses, and now that goal is within our reach. We should take this opportunity to approve this Constitutional amendment and send it to the States for ratification. This Constitutional amendment would provide the structure and enforcement mechanism to allow us to achieve this bipartisan goal.

ADDITIONAL COSPONSORS

S. 375

At the request of Mr. MCCAIN, the names of the Senator from Missouri (Mr. ASHCROFT) and the Senator from Georgia (Mr. CLELAND) were added as cosponsors of S. 375, a bill to amend title II of the Social Security Act to restore the link between the maximum amount of earnings by blind individuals permitted without demonstrating ability to engage in substantial gainful activity and the exempt amount permitted in determining excess earnings under the earnings test.

S. 852

At the request of Mr. LOTT, the name of the Senator from Arizona (Mr. KYL) 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. 1427

At the request of Mr. FORD, the name of the Senator from Montana (Mr. BURNS) 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. 1529

At the request of Mr. REID, his name was added as a cosponsor of S. 1529, a bill to enhance Federal enforcement of hate crimes, and for other purposes.

At the request of Mr. CHAFEE, his name was added as a cosponsor of S. 1529, supra.

S. 1822

At the request of Mr. ROCKEFELLER, the name of the Senator from Virginia (Mr. ROBB) was added as a cosponsor of S. 1822, a bill to amend title 38, United States Code, to authorize provision of care to veterans treated with nasopharyngeal radium irradiation.

S. 2039

At the request of Mr. BINGAMAN, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 2039, a bill to amend the National Trails System Act to designate El Camino Real de Tierra Adentro as a National Historic Trail.

S. 2110

At the request of Mr. BIDEN, the names of the Senator from Virginia (Mr. ROBB) and the Senator from South Dakota (Mr. DASCHLE) were added as cosponsors of S. 2110, a bill to authorize the Federal programs to prevent violence against women, and for other purposes.

S. 2145

At the request of Mr. SHELBY, the names of the Senator from Kansas (Mr. BROWNBACK) and the Senator from Montana (Mr. BURNS) 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. 2180

At the request of Mr. LOTT, the names of the Senator from Alabama (Mr. SHELBY) and the Senator from Vermont (Mr. JEFFORDS) were added as cosponsors of S. 2180, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability

Act of 1980 to clarify liability under that Act for certain recycling transactions.

S. 2190

At the request of Mr. KENNEDY, the name of the Senator from Virginia (Mr. ROBB) 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. 2205

At the request of Mr. DORGAN, the names of the Senator from Oregon (Mr. SMITH), the Senator from South Dakota (Mr. DASCHLE), the Senator from Nevada (Mr. BRYAN), the Senator from Montana (Mr. BURNS), the Senator from Michigan (Mr. LEVIN), and the Senator from Missouri (Mr. BOND) were added as cosponsors of S. 2205, a bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the Lewis & Clark Expedition, and for other purposes.

S. 2233

At the request of Mr. CONRAD, the names of the Senator from Louisiana (Mr. BREAUX) and the Senator from West Virginia (Mr. BYRD) were added as cosponsors of S. 2233, a bill to amend section 29 of the Internal Revenue Code of 1986 to extend the placed in service date for biomass and coal facilities.

S. 2235

At the request of Mr. ROBB, his name was added as a cosponsor of S. 2235, a bill to amend part Q of the Omnibus Crime Control and Safe Streets Act of 1968 to encourage the use of school resource officers.

S. 2253

At the request of Mr. ROBB, his name was added as a cosponsor of S. 2253, a bill to establish a matching grant program to help State and local jurisdictions purchase bullet resistant equipment for use by law enforcement departments.

S. 2325

At the request of Mr. GRAMM, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 2325, a bill to provide an opportunity for States to modify agreements under title II of the Social Security Act with respect to student wages.

S. 2326

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 2326, a bill to require the Federal Trade Commission to prescribe regulations to protect the privacy of personal information collected from and about children on the Internet, to provide greater parental control over the collection and use of that information, and for other purposes.

S. 2353

At the request of Mr. DURBIN, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 2353, a bill to redesignate the legal public holiday of ''Washington's Birthday'' as ''Presidents' Day'' in honor of George Washington, Abraham Lincoln, and Franklin Roosevelt and in recognition of the importance of the institution of the Presidency and the contributions that Presidents have made to the development of our Nation and the principles of freedom and democracy.

S. 2364

At the request of Mr. CHAFEE, the names of the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S. 2364, a bill to reauthorize and make reforms to programs authorized by the Public Works and Economic Development Act of 1965.

S. 2395

At the request of Mr. DOMENICI, the names of the Senator from Mississippi (Mr. COCHRAN) and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S. 2395, a bill to provide grants to strengthen State and local health care systems' response to domestic violence by building the capacity of health care professionals and staff to identify, address, and prevent domestic violence.

S. 2418

At the request of Mr. JEFFORDS, the names of the Senator from Oregon [Mr. WYDEN) and the Senator from Indiana (Mr. LUGAR) were added as cosponsors of S. 2418, a bill to establish rural opportunity communities, and for other purposes.

S. 2484

At the request of Mr. JOHNSON, his name was added as a cosponsor of S. 2484, a bill to combat violent and gang-related crime in schools and on the streets, to reform the juvenile justice system, target international crime, promote effective drug and other crime prevention programs, assist crime victims, and for other purposes.

S. 2520

At the request of Mr. MOYNIHAN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 2520, a bill to exclude from Federal taxation any portion of any reward paid to David R. Kaczynski and Linda E. Patrik which is donated to the victims in the Unabomber case or their families or which is used to pay Mr. Kaczynski's and Ms. Patrik's attorneys' fees.

SENATE JOINT RESOLUTION 56

At the request of Mr. GRASSLEY, the names of the Senator from Oregon (Mr. SMITH) and the Senator from Kansas (Mr. ROBERTS) were added as cosponsors of Senate Joint Resolution 56, a joint resolution expressing the sense of Congress in support of the existing Federal legal process for determining the safety and efficacy of drugs, including marijuana and other Schedule I drugs, for medicinal use.

SENATE CONCURRENT RESOLUTION 83

At the request of Mr. WARNER, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of Senate Concurrent Resolution 83, a concurrent resolution remembering the life of George Washington and his contributions to the Nation.

SENATE RESOLUTION 257

At the request of Mr. MURKOWSKI, the names of the Senator from Montana (Mr. BURNS), the Senator from Arkansas (Mr. HUTCHINSON), the Senator from North Dakota (Mr. CONRAD), and the Senator from Illinois (Ms. MOSELEY-BRAUN) were added as cosponsors of Senate Resolution 257, a resolution expressing the sense of the Senate that October 15, 1998, should be designated as ''National Inhalant Abuse Awareness Day.''

SENATE RESOLUTION 271

At the request of Mr. BIDEN, the names of the Senator from Michigan (Mr. ABRAHAM), the Senator from Hawaii (Mr. AKAKA), the Senator from Missouri (Mr. ASHCROFT), the Senator from Montana (Mr. BAUCUS), the Senator from Utah (Mr. BENNETT), the Senator from New Mexico (Mr. BINGAMAN), the Senator from California (Mrs. BOXER), the Senator from Kansas (Mr. BROWNBACK), the Senator from Nevada (Mr. BRYAN), the Senator from West Virginia (Mr. BYRD), the Senator from Colorado (Mr. CAMPBELL), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Mississippi (Mr. COCHRAN), the Senator from New York (Mr. D'AMATO), the Senator from Connecticut (Mr. DODD), the Senator from North Dakota (Mr. DORGAN), the Senator from Illinois (Mr. DURBIN), the Senator from North Carolina (Mr. FAIRCLOTH), the Senator from California (Mrs. FEINSTEIN), the Senator from Kentucky (Mr. FORD), the Senator from Ohio (Mr. GLENN), the Senator from Florida (Mr. GRAHAM), the Senator from Texas (Mr. GRAMM), the Senator from Iowa (Mr. GRASSLEY), the Senator from New Hampshire (Mr. GREGG), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Texas (Mrs. HUTCHISON), the Senator from Hawaii (Mr. INOUYE), the Senator from Vermont (Mr. JEFFORDS), the Senator from South Dakota (Mr. JOHNSON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Nebraska (Mr. KERREY), the Senator from Louisiana (Ms. LANDRIEU), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Vermont (Mr. LEAHY), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Florida (Mr. MACK), the Senator from Arizona (Mr. MCCAIN), the Senator from Maryland (Ms. MIKULSKI), the Senator from Illinois (Ms. MOSELEY-BRAUN), the Senator from New York (Mr. MOYNIHAN), the Senator from Alaska (Mr. MURKOWSKI), the Senator from Washington (Mrs. MURRAY), the Senator from Nevada (Mr. REID), the Senator from Virginia (Mr. ROBB), the Senator from Delaware (Mr. ROTH), the Senator from Maryland (Mr. SARBANES), the Senator from Oregon (Mr. SMITH), the Senator from Maine (Ms. SNOWE), the Senator from Pennsylvania (Mr. SPECTER), the Senator from South Carolina (Mr.

THURMOND), the Senator from New Jersey (Mr. TORRICELLI), and the Senator from Minnesota (Mr. WELLSTONE) were added as cosponsors of Senate Resolution 271, a resolution designating October 16, 1998, as ''National Mammography Day.''

SENATE CONCURRENT RESOLUTION 122—EXPRESSING THE SENSE OF THE CONGRESS RELATIVE TO THE 65TH ANNIVERSARY OF THE UKRAINIAN FAMINE OF 1932–1933

Mr. LEVIN submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 122

Whereas this year marks the 65th anniversary of the Ukrainian Famine of 1932–1933 that caused the deaths of at least 7,000,000 Ukrainians and that was covered up and officially denied by the government of the former Soviet Union;

Whereas millions of Ukrainians died, not by natural causes such as pestilence, drought, floods, or a poor harvest, but by policies designed to punish Ukraine for its aversion and opposition to the government of the former Soviet Union's oppression and imperialism, including the forced collectivization of agriculture;

Whereas when Ukraine was famine-stricken, the government of the former Soviet Union exported 1,700,000 tons of grain to the West while offers from international relief organizations to assist the starving population were rejected on the grounds that there was no famine in Ukraine and no need for the assistance;

Whereas the borders of Ukraine were tightly controlled and starving Ukrainians were not allowed to cross into Russian territory in search of bread;

Whereas in his book ''The Harvest of Sorrow'', British historian Robert Conquest explains, ''A quarter of the rural population, men, women, and children, lay dead or dying, the rest in various stages of debilitation with no strength to bury their families or neighbors.'';

Whereas the Commission on the Ukraine Famine was established on December 13, 1985, to conduct a study with the goal of expanding the world's knowledge and understanding of the famine and to expose the government of the former Soviet Union for its atrocities in the famine;

Whereas the Commission's report to Congress confirmed that the government of the former Soviet Union consciously employed the brutal policy of forced famine to repress the Ukrainian population and to oppress the Ukrainians' inviolable religious and political rights; and

Whereas the Commission on the Ukraine Famine presented 4 volumes of findings and conclusions, 10 volumes of archival material, and over 200 cassettes of testimony from famine survivors to the newly independent Government of Ukraine in 1993, during the official observances of the 60th anniversary of the Ukrainian famine in Kyiv, Ukraine: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the victims of the government of the former Soviet Union-engineered Ukrainian Famine of 1932–1933 be solemnly remembered on its 65th anniversary;

(2) the Congress condemns the systematic disregard for human life, human rights, human liberty, and self-determination that characterized the repressive policies of the government of the former Soviet Union during the Ukrainian Famine of 1932–1933;

(3) on the 65th anniversary of the Ukrainian Famine of 1932–1933, in contrast to the policies of the government of the former Soviet Union, Ukraine is moving toward democracy, a free-market economy, and full respect for human rights, and it is essential that the United States continue to assist Ukraine as it proceeds down this path; and

(4) any supplemental material that will assist in the dissemination of information about the Ukrainian Famine of 1932–1933, and thereby help to prevent similar future tragedies, be compiled and made available worldwide for the study of the devastation of the famine.

SEC. 2. TRANSMITTAL OF THE RESOLUTION.

The Secretary of the Senate shall—

(1) transmit a copy of this resolution to—

(A) the President;

(B) the Secretary of State; and

(C) the co-chairs of the Congressional Ukrainian Caucus; and

(2) request that the Secretary of State transmit a copy of this resolution to the Government of Ukraine.

● Mr. LEVIN. Mr. President, today I submit a resolution commemorating the 65th anniversary of the Ukrainian Famine of 1932–1933. During the period 1932–1993, the repressive policies of the government of the former Soviet Union, directed by Joseph Stalin, led to the deaths of at least seven million Ukrainians. Stalin's war on the Ukraine sought to eradicate its unique religious, cultural and political characteristics for the purpose of achieving complete Soviet domination.

For the most part, the famine and its victims can be traced to the forced collectivization of agricultural production. Collectivization was central to Stalin's efforts to break the will of the Ukrainian land-owning peasants and a conscious part of his plan to bring about an end to Ukrainian nationalism, ultimately leading to total Communist control. Stalin's forced collectivization of agriculture changed the face of Ukraine. Stalin repeatedly raised the quota productions for agriculture, so much so that the vast majority of Ukrainian agricultural production was being transferred from the region. These increased production quotas for exports depleted the amount of food for the people of Ukraine. The quota increases began a vicious cycle of less food which led to the exhaustion of farm workers, which in turn led to even smaller harvests and ultimately famine. Harvest yields were further diminished when the peasants were forced to abandon their accustomed ways of farming and use collectivized farming techniques.

During this period, food became so scarce that people were left to scavenge for what little they could find. There are horrible accounts of people being sentenced to death for stealing sheaves of corn. The fields once owned and worked by the peasants were now supervised by armed guards, while an environment of suspicion and fear consumed the Ukrainian people. Individuals who did not quickly show the signs of starvation were often accused of hoarding food. At the same time that the Ukrainian people were risking their lives for the smallest amount of food to sustain themselves and their families, the Soviet Union was denying that there was a crisis and refusing to allow assistance from international relief organizations to be delivered in the region. Throughout this turbulent period, Stalin further exacerbated the situation by working to turn Ukrainians against one another. The famine followed an assault on the Kulaks, or petty bourgeoisie, and a purge of the Ukrainian intelligentsia.

While this tragic period of Ukrainian history is often difficult to revisit, we must do so in order to ensure that the world will not to endure a tragedy such as this again. When children in the United States study the dark periods of human history, it is important that the Ukrainian famine of 1932–1933 be included. It is also important to note that despite the tragedy the people of Ukraine endured at the hands of Stalin's government and many years of Soviet domination, Ukraine has re-emerged with its vibrant cultural and religious traditions intact and strong.

Mr. President, I am proud to sponsor this resolution commemorating the 65th anniversary of the Ukrainian Famine and I urge all Senators to show their support.●

SENATE CONCURRENT RESOLUTION 123—EXPRESSING THE SENSE OF CONGRESS REGARDING THE POLICY OF THE FOREST SERVICE TOWARD RECREATIONAL SHOOTING AND ARCHERY RANGES ON FEDERAL LAND

Mr. MCCAIN (for himself, Mr. KYL, Mr. CRAIG, and Mr. LOTT) submitted the following concurrent resolution; which was referred to the Committee on Energy and Natural Resources.

S. CON. 123

Whereas the Forest Service is developing a national policy to guide its management of existing and proposed shooting and archery ranges on national forest land;

Whereas when managed appropriately, firearm and archery sports are a legitimate use of national forest land;

Whereas the Forest Service has proceeded with closure actions of recreational shooting ranges on Forest Service land without prior notification to Congress or the general public;

Whereas on March 10, 1997, the Forest Service suspended the special-use permit of the Tucson Rod and Gun Club located in the Coronado National Forest near Tucson, Arizona; and

Whereas the Forest Service is evaluating alternative sites in the Coronado National Forest that could be used by the Tucson Rod and Gun Club for firearm and archery sports, the Secretary of Agriculture has directed the expeditious completion of the environmental assessment, and the Forest Service has committed to notify Congress of its decision by November 20, 1998: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. SENSE OF CONGRESS REGARDING PUBLIC RECREATIONAL AND MULTI-PURPOSE USE OF UNITED STATES FOREST SERVICE LAND.

It is the sense of Congress that—

(1) the Forest Service should not close shooting or archery facilities without prior notification to Congress and the general public unless there is an immediate threat to public safety;

(2) notification to Congress of any plan for closure of a shooting or archery facility should include the reasons for the closure, including any potential for imminent public safety endangerment;

(3) the Forest Service should avoid unreasonable restrictions in the issuance of special-use permits for firearm and archery sports facilities;

(4) the Forest Service should fully evaluate alternative sites in the Coronado National Forest and provide, to the extent consistent with the environmental assessment, a reasonable alternative that would allow the Tucson Rod and Gun Club to quickly open a safe facility for firearm and archery sports; and

(5) the Forest Service should adhere to its deadline of November 20, 1998, for a decision on a site for the Tucson Rod and Gun Club.

Mr. MCCAIN. Mr. President, today I submit a resolution that is of tremendous importance to me and many of my constituents back in Arizona. This resolution expresses the Sense of the Congress that firearm and archery sports are a recognized recreational opportunity for the general public and a legitimate use of public land. The availability of public land for such activities is especially important in western states, such as Arizona, where a very large percentage of the land is public land.

Mr. President, given that there is little private land in Arizona that is available for such activities, I believe it is crucial that the Forest Service support the continuation of firearm and archery sports on national forest lands.

Mr. President, the Tucson Rod and Gun Club operated a shooting and archery range in the Coronado National Forest for almost 45 years and had an exemplary safety record during that time. When opened, it was miles from the nearest developed area, but the City of Tucson has spread to the very edge of the forest, and houses and schools are now within a short distance from the existing shooting range. The Club's special use permit was temporarily suspended on March 10, 1997 after a Forest Service report concluded that the range may pose a hazard to the homeowners in the vicinity and to visitors to the Sabino Canyon area. The Club as well as the Congressional delegation has asked the Forest Service to assist in searching for an alternate site for their facility.

Mr. President, despite assurances by the Secretary of Agriculture and by the Forest Service that the Club's request would be dealt with in an expeditious manner, it is now more than eighteen months since the range was closed, and shooters in Tucson still do not have a reasonably close, organized, and safe place for recreational firearm sports. At the delegation's urging, the Secretary of Agriculture directed the Forest Service to look at the proposed alternative sites and issue a decision on a selected site for these activities by November 1998. The local Forest Supervisor has pledged to issue a final decision in this matter by November 20, 1998, and has further agreed that once this decision is rendered, no further public comments will be solicited, nor will additional environmental analysis be required by the Department of Agriculture or the Forest Service. I expect the Forest Supervisor to abide by this understanding.

Mr. President, let me make clear that it is not my intent in offering this resolution, to override the Forest Service's normal planning process or existing laws. I know there are others in this body with similar concerns about retaining multiple use policies of the Forest Service. The intent in the resolution is that the Forest Service should support shooting and archery ranges on public land as one of the many public uses of public lands and should strive to find a suitable alternative location for the Tucson Rod and Gun Club.

Mr. KYL. Mr. President, I concur with everything the senior Senator from my state has just said. I would like to add that I find it inconceivable that the Forest Service could determine that it cannot identify approximately 20 acres of land on the entire Santa Catalina ranger district of the Coranado National Forest that is both suitable for a shooting range and readily accessible to the members of the Club. I expect that a suitable location will be found and that the Forest Service will work with the club in good faith to agree on a plan to open a facility.

Mr. President, I would also like to thank Representative KOLBE for his leadership and hard work on this issue.

Mr. MCCAIN. Mr. President, I join with my Arizona colleague in applauding the efforts of our colleague in the House, Representative KOLBE, to resolve this issue.

AMENDMENTS SUBMITTED

KING COVE HEALTH AND SAFETY ACT OF 1998

MURKOWSKI AMENDMENT NO. 3676

Mr. MURKOWSKI proposed an amendment to the bill (S. 1092) to provide for a transfer of land interests in order to facilitate surface transportation between the cities of Cold Bay, Alaska, and King Cove, Alaska, and for other purposes; as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''King Cove Health and Safety Act of 1998''.

SEC. 2. FINDINGS.

The Congress finds that—

(a) King Cove, Alaska is a community in the westernmost region of the Alaska Peninsula with a population of roughly 800 full-time residents and an additional 400 to 600 workers who are transported in and out of the community a number of times a year to work in the local fish processing plant and on fishing vessels;

(b) the majority of the full-time residents are indigenous Native peoples of Aleut ancestry that have resided in the region for over 5,000 years;

(c) the only mode of access to or from King Cove is via small aircraft or fishing boat, and the weather patterns are so severe and unpredictable that King Cove is one of the worst places in all of the United States to access by either of these modes of transportation;

(d) the State of Alaska has initiated the King Cove to Cold Bay Transportation Improvement Assessment to confirm the need for transportation improvements for King Cove and to identify alternative methods of improving transportation access with comprehensive environmental and economic review of each alternative;

(e) the State of Alaska has identified a road between King Cove and Cold Bay as one of the alternatives to be evaluated in the transportation planning process but for a road to be a viable option for the State of Alaska, the Congress must grant a legislative easement within the Izembek National Wildlife Refuge (''Refuge'') across approximately seven miles of wilderness land owned by the Federal Government;

(f) there are fourteen miles of roads within the wilderness boundary of the Refuge which are currently traveled by vehicles;

(g) any road constructed in accordance with such easement would be an unpaved, one-lane road sufficient in width to satisfy State law; and

(h) the combined communities of King Cove and Cold Bay have approximately 250 vehicles.

SEC. 3. PURPOSE.

The purpose of this Act is to establish a surface transportation easement across Federal lands within the Refuge and to transfer 664 acres of high value habitat lands adjacent to the Refuge in fee simple from the King Cove Corporation to the Federal Government as new wilderness lands within the Refuge in exchange for redesignating a narrow corridor of land within the Refuge as nonwilderness lands.

SEC. 4. LAND EXCHANGE.

If the King Cove Corporation offers to transfer to the United States all right, title, and interest of the Corporation in and to all land owned by the Corporation in Sections 2, 3, 4, 5, 6, and 7 of T 57 S, R 88 W, Seward Meridian, Alaska; and any improvements thereon, the Secretary of the Interior (''Secretary'') shall, not later than 30 days after such offer, grant the Aleutians East Borough a perpetual right-of-way of 60 feet in width through the lands described in sections 6 and 7 of this Act for the construction, operation and maintenance of certain utility-related fixtures and of a public road between the city of Cold Bay, Alaska, and the city of King Cove, Alaska and accept the transfer of the offered lands. Upon transfer to the United States, such lands shall be managed in accordance with Section 1302(i) of the Alaska National Interest Lands Conservation Act, shall be included within the Refuge, and shall be managed as wilderness.

SEC. 5. RIGHT-OF-WAY.

Unless otherwise agreed to be the Secretary and the Aleutians East Borough, the right-of-way granted under section 4 shall—

(1) include sufficient lands for logistical staging areas and construction material

sites used for the construction and maintenance of an unpaved, one-lane public road sufficient in width to meet the minimum requirements necessary to satisfy State law;

(2) meet all requirements for a public highway right-of-way under the laws of the State of Alaska; and

(3) include the right for the Aleutians East Borough, or its assignees to construct, operate, and maintain electrical, telephone, or other utility facilities and structures within the right-of-way.

SEC. 6. CONFORMING CHANGE.

Upon the offer of Corporation lands under section 4, the boundaries of the wilderness area within the Refuge are modified to exclude from wilderness designation a 100 foot wide corridor to accommodate the right-of-way within the following land sections—

(1) Sections 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 35, and 36 of T 56 S, R 87 W, Seward Meridian, Alaska.

(2) Sections 23, 24, 25, 26, 27, 34, 35, and 36 of T 56 S, R 88 W, Seward Meridian, Alaska.

(3) Sections 1, 2, 11, and 12 of T 57 S, R 89 W, Seward Meridian, Alaska.

SEC. 7. RIGHT-OF-WAY LOCATION.

Unless otherwise agreed to by the Secretary and the Aleutians East Borough, the right-of-way granted under section 4 shall be located within—

(a) sections 2, 3, 10, and 11 of T 59 S, R 86 W, Seward Meridian, Alaska;

(b) sections 27, 28, 29, 30, 31, 32, 33, 34, and 35 of T 59 S, R 86 W, Seward Meridian, Alaska;

(c) sections 3, 4, 9, 10, 13, 14, 15, 16, 23, 24, 25, 26, and 36 of T 58 S, R 87 W, Seward Meridian, Alaska;

(d) sections 5, 6,7, 8, 9, 16, 17, 20, 21, 27, 28, 29, 32, 33, and 34 of T 57 S, R 87 W, Seward Meridian, Alaska;

(e) sections 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 35, and 36 of T 56 S, R 87 W, Seward Meridian, Alaska;

(f) sections 23, 24, 25, 26, 27, 34, 35, and 36 of T 56 S, R 88 W, Seward Meridian, Alaska;

(g) section 6 of T 37 S, R 88 W, Seward Meridian, Alaska; and

(h) sections 1, 2, 11, and 12 of T 57 S, R 89 W, Seward Meridian, Alaska.

SEC. 8. TECHNICAL AMENDMENTS.

The following provisions of law shall not be applicable to any right-of-way granted under section 4 of this Act or to any road constructed on such right-of-way—

(1) section 22(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1621(g)).

(2) title XI of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3161 et seq.), except as specified in this section; and

(3) section 303(c) of title 49, United States Code.

SEC. 9. The Secretary and the Aleutians East Borough shall jointly prepare a plan setting forth—

(1) the times of the year a road may reasonably be constructed when there are not high concentrations of migratory birds in Kinzarof Lagoon; and

(2) limitations on non-emergency road traffic during periods of the year when there are high concentrations of migratory birds in Kinzarof Lagoon.

SEC. 10. If within 24 months of the date the King Cove Corporation offers to transfer to the United States all right, title, and interest of the Corporation lands set forth in Section 4 of this Act, the Secretary and the Aleutians East Borough fail to mutually agree on the following—

(1) a final land exchange and a grant of a right-of-way pursuant to Section 4; and

(2) the right-of-way specifications, and terms and conditions of use set forth in sections 5, 6, 7 and 8 of this Act;

then the Aleutians East Borough shall have the right to select a 60 foot right-of-way for the construction, operation, and maintenance of certain utility-related fixtures and of a public road from lands described in Section 7 of this section, and to identify logistical staging areas and construction material sites within the right-of-way. If an agreements is not reached within 6 months after the Aleutians East Borough notifies the Secretary of its selection, then the right-of-way is hereby granted to the Borough.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY.

Mr. THURMOND. Mr. President, I ask unanimous consent that the committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Thursday October 1, 1998. The purpose of this meeting will be to mark up the nomination of Michael Reyna to be a member of the Farm Credit Administration Board and to mark up the USDA Information Technology Reform and Year 2000 Compliance Act (S2116).

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

COMMITTEE ON ARMED SERVICES

Mr. THURMOND. Mr. President, I ask unanimous consent that the committee on Armed Services be authorized to meet on Thursday, October 1, 1998, at 9:30 a.m.. in open session, to receive testimony regarding plans for Department of Energy national security programs.

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

COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION

Mr. THURMOND. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, October 1, 1998 at 9:30 a.m. on S. 2494—Multichannel Video Competition Act.

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

COMMITTE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. THURMOND. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, October 1, 1998 at 2:30 p.m. on pending committee business.

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

COMMITTE ON ENERGY AND NATURAL RESOURCES

Mr. THURMOND. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, October 1, for purposes of conducting a full committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this hearing is to consider the nominations of Eljay B. Bowron to be Inspector General, DOI; Rose Eilene Gottemoeller to be Assistant Secretary of Energy for Non-Proliferation and National Security; and David Michaels to be Assistant Secretary of Energy for Environment, Safety and Health.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. THURMOND. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to conduct a hearing to receive testimony from Greta Joy Dicus, nominated by the President to be a member of the Nuclear Regulatory Commission (reappointment), and Jeffery S. Merrifield, nominated by the President to be a member of the Nuclear Regulatory Commission, Thursday, October 1, at 11:00 a.m., Hearing Room (SD–406).

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

COMMITTEE ON FOREIGN RELATIONS

Mr. THURMOND. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, October 1, 1998 at 10:00 a.m. to hold a hearing.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. THURMOND. Mr. President, I ask unanimous consent that the Senate Committee on Indian Affairs be authorized to meet during the session of the Senate on Thursday, October 1, 1998 at 10:30 a.m. to conduct a Markup, on S. 1870, to amend the Indian Gaming Regulatory Act; H.R. 1805, Auburn Indian Restoration Act; and S. 2097, to encourage and facilitate the resolution of conflicts involving Indian tribes, to be followed immediately by a hearing on S. 2010, to provide for business development and trade promotion for Native Americans. The hearing will be held in room 485 of the Russell Senate Office Building.

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

COMMITTEE ON THE JUDICIARY

Mr. THURMOND. 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, October 1, 1998, at 9:30 a.m. in room SD–226 of the Senate Dirksen Office Building.

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

COMMITTEE ON THE JUDICIARY

Mr. THURMOND. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, Oct. 1, 1998 at 2:30 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.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. THURMOND. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be

authorized to meet during the session of the Senate on Thursday, October 1, 1998 at 10:30 a.m. to conduct a hearing on Capitol security issues.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. THURMOND. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, October 1, 1998 at 10:00 a.m. to hold a closed business meeting.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. THURMOND. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, October 1, 1998 at 12:00 p.m. to hold a closed conference with the House Permanent Select Committee on Intelligence regarding the FY 99 Intelligence Authorization.

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

SUBCOMMITTEE ON CLEAN AIR, WETLANDS, PRIVATE PROPERTY AND NUCLEAR SAFETY

Mr. THURMOND. Mr. President, I ask unanimous consent that the Subcommittee on Clean Air, Wetlands, Private Property, and Nuclear Safety granted permission to conduct a hearing on regional haze and mercury pollution on Thursday, October 1, 1998 at 2:00 p.m., Hearing Room (SD–406).

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

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. THURMOND. Mr. President, I ask unanimous consent that the Subcommittee on Forests and Public Land Management of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, October 1, for purposes of conducting a subcommittee hearing which is scheduled to begin at 2:30 p.m. The purpose of this hearing is to receive testimony on Forest Service Cabin fees, and on S. 2513, a bill to transfer administrative jurisdiction over certain Federal land located within or adjacent to Rogue River National Forest and to clarify the authority of the Bureau of Land Management to sell and exchange other Federal land in Oregon; S. 2413, a bill to provide for the development of a management plan for the Woodland Lake Park tract in Apache-Sitgreaves National Forest in the State of Arizona reflecting the current use of the tract as a public park; and S. 2402, a bill to direct the Secretary of Agriculture to convey certain lands in San Juan Country, New Mexico, to San Juan College.

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

SUBCOMMITTEE ON INTERNATIONAL SECURITY, PROLIFERATION, AND FEDERAL SERVICES

Mr. THURMOND. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Subcommittee on International Security, proliferation, and Federal Services to meet on Thursday, October 1, 1998, at 2:00 p.m. for its annual postal oversight hearing.

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

ADDITIONAL STATEMENTS

AGRICULTURE CRISIS IN RURAL AMERICA

● Mr. DURBIN. Mr. President, today I would like to take a few minutes to talk about a subject of great importance to my home state of Illinois—falling farm prices and the impending economic crisis in Rural America.

Illinois is one of our country's most important agricultural contributors. Illinois farm land, which accounts for about 27 million acres, is considered some of the most productive in the world. More than 76,000 farm families in the state produce corn, soybeans, wheat, beef, pork, dairy products, and specialty crops. Illinois exports more than $3.4 billion worth of agricultural products. The state's agribusiness activity is vibrant. From the Chicago area to Decatur and throughout Illinois, agricultural processing employs thousands of people. And, our researchers, at the University of Illinois as well as at other institutions, continue to help provide answers to some of the most common as well as the most complex agricultural questions we face.

With that said, the current downturn of agricultural prices is very troubling. Not just for Illinois' economy, but for the farm families who work to ensure that the state of Illinois, the country, and the world enjoy the safest and most abundant food supply.

Recently, I had visits in my Washington office from almost every agriculture group in the state. I heard, firsthand, how farm income will fall to $42.5 billion in 1998, 20% lower than 1996 and 43% below the five year average. Meanwhile, total farm debt in 1998 has been estimated at $172 billion, the highest level since 1985. This decline in farm income could lead to massive job loss in the agriculture sector and in agribusiness, not to mention what it will do to our family farms.

Last week, I hosted a roundtable discussion with 15 farmers in Springfield, Illinois to talk about the crisis in rural Illinois and America. It is clear that falling prices, the uncertainty with foreign markets—particularly in Asia and Russia, and poor weather conditions have contributed significantly to a severe economic crisis for our nation's farmers.

I heard stories about low prices. In central Illinois, the price of corn went from $2.22/bu to $1.66/bu between July 17 and August 31, a 21 percent decline over a six week period. During this same period, the price of soybeans went from $6.50/bu to $5.15/bu, also a 21% drop.

To further illustrate the seriousness of this crisis, it is important to look at this drop in commodity prices from a historical perspective. At the Shipman Elevator in Shipman, Illinois, the price of corn on September 18, 1998, was $1.64/bu. On this same date in 1993, the price was $2.17/bu. The price of soybeans at the Shipman Elevator on September 18, 1993 was $6.14/bu compared to the September 18, 1998 price of $5.00.

Livestock prices have also dropped dramatically. The price of hogs at Farmland in Monmouth, Illinois, went from $54/cwt in September 1997 to $39/cwt in March 1998 to $29/cwt on September 18, 1998.

At these prices, I worry that a number of our nation's farmers will not be able to survive. Whether this means leaving farming altogether or simply not being able to make their basic payments, I fear we are facing a serious economic crisis in rural America. And, farmers won't be the only ones impacted by this crisis. In the past several weeks, two of the world's largest agricultural equipment manufactures, Deere and Company, based in Moline, IL, and CASE Corporation, based in Racine, Wisconsin, have announced plans to reduce production and cut jobs. Both companies claim declining farm prices have reduced demand for their equipment. When American agriculture suffers, the effects are widespread, from equipment manufacturers to processors to commodity transporters.

Mr. President, Congress needs to demonstrate strong leadership in the face of this economic crisis. There are some short-term solutions which have already been considered by this chamber—removing the cap on marketing loans and extending their terms, authorizing the Secretary of Agriculture to make emergency storage payments to farmers to encourage the use of marketing assistance loans, and replenishing the disaster reserve. Unfortunately, partisanship has gotten in the way of offering rural America a helping hand. This debate is not about the sanctity of the 1996 Farm Bill, it is about giving American agriculture some of the tools needed to improve economic conditions and regain stability.

The Administration, led by Secretary Glickman, has also offered some suggestions on how to address this crisis. They have put forward a $7.1 billion package to aid farmers including $2 billion in emergency disaster assistance. I welcome their proposal and leadership.

In my Springfield meeting I was also told that many farmers won't feel the effects of the current crisis until well after the harvest when the grain bins are full and prices are at all-time lows. And, many of the farm leaders who have appealed to Congress and the Administration for help are concerned that this crisis could stretch into years rather than months. In short, they don't see an end in sight.

Mr. President, Congress is scheduled to adjourn in less than two weeks. We

won't be able to single-handedly solve this serious economic crisis in rural America before we go home for the year. But, we shouldn't wait to address this important issue and offer some assistance. We should act soon and in a bipartisan fashion. We should explore short-term fixes, like lifting the cap on marketing loans, as well as long-term solutions, like tax fairness and expanded trade opportunities. We should stand up for the men and women in rural America and let them know that Congress and the Administration will work with them to help alleviate some of the economic pain and uncertainty they face.

To do anything less would be a disservice to our farmers and American agriculture.●

SOMERSET COUNTY RED RIBBON CAMPAIGN

● Mr. SANTORUM. Mr. President, Communities across our nation are being plagued by the numerous problems associated with drug and alcohol abuse, and this disease is playing an increasing role in the lives of our children. I rise today to commend Somerset County in Pennsylvania for its efforts to raise awareness and show our children that by choosing a drug-free lifestyle, they can reach their full potential.

The Somerset County Red Ribbon Committee is sponsoring its annual Red Ribbon Campaign, which offers citizens throughout Pennsylvania the opportunity to demonstrate their commitment to a drug-free lifestyle. The Committee has designated October 23-31 Red Ribbon Week. Businesses, schools, churches and community organizations across the state will play an active role by participating in drug education and prevention activities throughout the week.

Our children are the future of our country. By joining together to fight the war on drugs we are investing in that future. I commend Somerset County for their efforts in confronting this difficult challenge. Mr. President, I ask my colleagues to join Pennsylvania in recognizing Red Ribbon Week so that all of our children's futures may be promising, healthy and drug-free.●

CONFERENCE REPORT ON THE HIGHER EDUCATION ACT AMENDMENTS OF 1998

● Mr. JOHNSON. Mr. President, I rise to express my strong support for the Higher Education Act Amendments of 1998.

The Higher Education Act has been of enormous benefit to millions of students over the past three decades in providing more affordable access to institutions of post-secondary education. Many of these students simply would not have gone to college or vocational school without the assistance provided through such programs as Pell Grants, student loans, and work study.

With the increased competition faced by workers in the global economy, the importance of these programs is even greater today, not only for students, but also for our nation's economy. The Higher Education Act programs account for 68 percent of all financial aid available to students. In FY 1999, the student aid programs authorized under the Higher Education Reauthorization Act will provide $50 billion of aid to over 8.8 million students.

The cost of a college education continues to grow far faster than inflation, leaving more and more students with a large debt once they finish. Last fall, the College Board released a nationwide survey of tuition costs, finding that tuition and fees would rise about 5 percent for the fifth year in a row.

In contrast, inflation in the overall economy has been held under control during these years, hovering at, or below 2 percent.

As costs have increased, student borrowing has expanded to make up the difference. Student loans now comprise about 60 percent of all financial aid, whereas in the 1980–81 school year, loans were just over 40 percent of the total.

Given the increased reliance on borrowing, it is notable that this reauthorization legislation provides for a reduction in interest rates on new student loans from 8.25 percent to 7.46 percent, saving $11 billion for students over the life of their loans. The typical borrower at a 4-year college, who graduates with $13,000 in debt, will save about $700 over a ten-year repayment period. This is a major educational milestone, allowing student borrowers the lowest interest rate in 17 years.

Nearly 84 percent of South Dakota students receive financial aid in some form, with an average annual award of $5,400 to students who receive aid at the six public universities. Approximately 16,000 students in South Dakota receive Pell Grants, accounting for $28 million in federal assistance.

I am pleased that this bill gradually increases the size of the maximum Pell Grant to $5,800 in academic years 2003–4. In the 1970s, Pell Grants covered three-quarters of the costs of attending a four-year public school. Today, these grants cover only one-third of the cost. I realize that finding the budget resources to fund this maximum grant fully will be a struggle, however Pell Grants are the most effective program we have for helping low-income students afford post-secondary education.

This legislation also continues the essential Federal Family Education Loan (FFEL) program. This program alone has enabled forty million Americans to attend college over the past thirty years. Although direct lending by the federal government has consumed a portion of the overall student loan volume, all of the colleges and universities in my state of South Dakota continue to use the FFEL program and remain satisfied with the services they receive. Accordingly, I have been skeptical of efforts that might destroy the balance that has existed between direct lending and the FFEL program. Federal policy should not be changed in ways to either favor direct lending or undermine the financial viability of lending by the private sector.

There are some lesser-noticed provisions of this bill of which I am particularly proud. Promoting the availability and affordability of child care has been one of my highest priorities in the Senate. That is why I am so pleased that legislation I cosponsored earlier this year, the CAMPUS Act, has been incorporated into this bill. CAMPUS stands for Child Care Access Means Parents in School. This provision will establish a grant program to assist colleges with the costs of establishing child care centers to provide campus-based child care for low-income parents attending college.

The obvious benefit of easy access to child care is that students with young children will have a much greater probability of staying in school and completing their degree. More and more students today are non-traditional students, and the need for campus-based child care is greater than ever before.

Additionally, this bill establishes an innovative new program to offer student loan forgiveness for those who earn a degree in early childhood education and become full-time child care workers in a child care facility. Child care, unfortunately, is one of the lowest-paying professions that one can find, and this low level of pay is completely incommensurate with the value of those who are caring for young children. Not surprisingly, turnover in this field is very high, as workers find better paying jobs elsewhere.

It is especially tragic when highly-trained graduates, those who have earned a degree in early childhood education, are forced to leave the child care profession because they cannot pay their student loans. We still need to do all we can to raise wages for child care workers, but helping with student loan repayment is a remarkable step forward. This concept was included in child care legislation I cosponsored last year, and I am very pleased that it has been included in this bill.

I am pleased this bill develops new distance education partnership models through the Learning Anytime Anywhere Partnership (LAAP) program. This creative initiative provides partnerships grants between schools and other entities to assist in the expansion of student achievement in distance education. LAAP, combined with the expansion of student aid for distance learners, will allow more non-traditional students to obtain higher education, including full-time workers, parents, people in rural areas, or individuals with disabilities.

In addition to meeting the needs of rural America through distance learning, the Higher Education Act speaks to an equally important population of

students: Indian Country. This bill includes a new initiative to provide grants and related assistance to Indian Tribal Colleges and Universities to improve and expand their capacity to serve Indian students. The bill authorizes $10 million for FY 1999 and such sums as may be necessary in the years beyond FY 1999. This new initiative for Tribal Colleges will provide much-needed funding to strengthen academic programs, develop faculty, and improve student services.

Finally, I support the extension of the Special Leveraging Educational Assistance Partnership Program (LEAP), formerly known as the State Student Incentive Grant (SSIG) program. SSIG provides funding on a dollar-for-dollar match to help states provide need-based financial aid to students through grants and community service work study awards. Without this federal incentive, many states would not have established state financial aid programs. As a cosponsor of the LEAP Act, I am pleased that states will now gain new flexibility to use these funds for activities such as increasing grant amounts, carrying out academic or merit scholarships programs, community service programs, and early interventions programs. This program is yet another example of a federal-state partnership developed to create maximum opportunities for students seeking higher education.

While I am pleased with the inclusion of numerous programs that will benefit students pursing higher education, I am deeply disappointed the conference report failed to include an important amendment to count higher education as a work requirement for purposes of the Temporary Assistance to Needy Families program. I was a proud cosponsor of this amendment which enjoyed a bipartisan majority in the Senate-passed bill.

Throughout this Congress, the leadership has echoed the importance of taking personal responsibility and achieving independence. As a supporter of welfare reform, I support imposing work requirements on individuals who receive cash assistance. However, to not allow students to earn a degree, a certifiable ticket to self-sufficiency, is irresponsible and thoughtless.

I have heard from a number of my constituents that the current system has had the unfortunate effect of forcing TANF recipients out of college or vocational school and into dead-end, entry-level jobs. It seems obvious that enabling these individuals, which are usually single mothers, to complete a degree would be far more effective in achieving long-term benefits. Education leads to higher income levels, helping move these families out of poverty for good and making them productive taxpayers. Federal requirements should not be so rigid and inflexible that states are prevented from exercising this option. Unfortunately, we were unsuccessful in addressing this need in the Higher Education Act of 1998, however, I am committed to working with Senator WELLSTONE and other advocates to revisit this issue in the future.

Passage of the Higher Education Reauthorization Act of 1998 was absolutely essential for the continuation and improvement of a system that helps keep post-secondary education within the reach of typical American families. I was pleased with the expeditious manner by which Congress responded to the conference report and President Clinton's prompt signing of the bill.●

ENSURING SAFE SCHOOLS

● Mr. CHAFEE. Mr. President, I am delighted that the Senate has approved legislation which I cosponsored to help ensure the safety of our nation's schools. Senators CAMPBELL, JEFFORDS, and FAIRCLOTH introduced S.2235, ''The School Resource Officers Partnership Grant Act of 1998,'' in June. It was approved unanimously by the Judiciary Committee and approved by the Senate yesterday.

The goal of this legislation is to help put a stop to crime and violence in our nation's schools. Through this legislation, partnerships will be developed between state and local law enforcement agencies and the school districts in which they serve. While national statistics on violence in schools indicate an overall downward trend, the types of violence that have occurred recently, particularly in the last school year, are nothing short of traumatic.

The sight and sound of schoolyard shootings have become all too familiar. Americans were shocked, time and time again, by the devastating sight on the evening news of youngsters being carried to ambulances from school grounds following shooting sprees by other youngsters. Looking back at the 1997-1998 school year, several particularly alarming incidents occurred:

In October, a 16-year-old at Pearl High School in Mississippi went to school with a hunting rifle. He shot and killed a student and a teacher, leaving a second teacher with a bullet wound in the head.

In December, a student at Heath High School in West Paducah, Kentucky used a pistol to kill 3 other students. The shooter was 14-years-old.

In March, 2 boys in Jonesboro, Arkansas, an eleven year-old and a thirteen year-old, pulled the fire alarm in their school. As students and teachers left the building, the two boys began shooting. They killed five people: four young girls and a teacher.

In April, a 14-year-old boy in Edinboro, Pennsylvania went to a school dance with a gun he apparently removed from his father's bureau drawer. He killed a science teacher and injured two students and another teacher.

At Thurston High School in Springfield, Oregon a 15-year-old who was suspended for carrying a gun to school, returned to school the next day and opened fire in a crowded cafeteria. He killed two students and wounded 19 others. Police suspect he shot and killed his parents, as well.

It is no secret that I support tougher restrictions on gun ownership. Earlier this year, Senator DURBIN and I offered an amendment to the spending bill for the Departments of Commerce, State and Justice. Our amendment would have held adult gun owners responsible if their weapon—which had not been stored properly—was used by a child to injure himself or someone else. I felt that this was the least we could do to help protect children from needless gun violence. Unfortunately, the majority of my Senate colleagues didn't agree, and our amendment was defeated.

Despite that setback, I believe that it is Congress' responsibility to take steps to assist local communities in their battle against school violence. Children bringing weapons to school and drug use among youngsters aren't problems of big city schools alone. In my own State of Rhode Island during the last school year, there were more than 400 weapons-related suspensions. To put that number in the proper perspective, we have fewer than 450 elementary and secondary schools in Rhode Island, including private and religious schools. We should not fool ourselves into thinking that the kind of atrocities that all of America witnessed in schools last year can't happen in our children's schools.

It is my sincere belief that The School Resource Officers Partnership Grant Act is a step in the right direction. This legislation will make federal funds available to local law enforcement agencies, working in partnership with local school districts, for ''school resource officers.'' These SROs, who must be professional law enforcement officers, would address gang-related crime and violence, including drug use, in and around schools. They would work with students, teachers, and administrators on crime prevention and personal safety. And perhaps most importantly, they would work directly with students on conflict resolution to help avert violent oubursts that can leave innocent children dead or injured.

There are communities throughout our nation whose police officers have undertaken these very tasks. In Rhode Island, police officers in Newport, Providence, and West Warwick, to name a few, already are working within schools on crime prevention, mentoring, and conflict resolution. Our bill would allow local law enforcement agencies to use a portion of their federal Community Policing funds for these officers.

I applaud our teachers and administrators for their efforts to confront and address violence in schools, but we cannot expect them to undertake this battle alone. This bill will make the knowledge and resources of professional law enforcement agencies available to our schools. I know it will help keep our children safe.●

MAURICE RIVER TOWNSHIP

● Mr. TORRICELLI. Mr. President, I rise today to recognize Maurice River Township as it celebrates its 200th anniversary on Saturday October 3rd. It is a pleasure for me to be able to recognize this important milestone.

Maurice River Township has a rich and varied history that will be celebrated and honored this Saturday. Maurice River Township was first chartered as one of six precincts of the County of Cumberland, created by the Colonial Legislature, in the Colony of West Jersey on January 19th, 1747. Together, Greenwich, Hopewell, and Stow Creek, on the North side of Cohansey Creek, as well as Fairfield, Deerfield, and Maurice River on the South side of Cohansey Creek, formed Cumberland County. The Maurice River Precinct contained all of the land on the East side of Prince Maurice's River. In 1798, Maurice River was finally incorporated as a Township by the New Jersey State Legislature.

Over the past 200 years the Township of Maurice River has developed into a thriving community, incorporating the eight villages of Delmont, Bricksboro, Dorchester, Leesburg, Heislerville, Port Elizabeth, Cumberland, and Milmay. Today, Maurice River stands as one of the most vibrant communities in the State of New Jersey, and I am confident it will continue to grow in a positive direction.

The determination and the spirit of the Maurice River community make it a privilege for me to recognize its bicentennial anniversary. The Township has become one of New Jersey's brightest stars, and I look forward to another two hundred years of success.●

TRIBUTE TO THE BLUE RIDGE RIFLES

● Mr. COVERDELL. Mr. President, I rise today to pay tribute to the Blue Ridge Rifles Precision Drill Team of North Georgia College and State University. The Blue Ridge Rifles finished first overall at the Tulane University Mardi Gras Drill Meet, their tenth such win since 1979.

The Blue Ridge Rifles competed against outstanding competition, hailing from such esteemed institutions as West Point, the United States Air Force Academy, and the Georgia Military College. Furthermore, this competition was scored using Navy-Marine Corps standards of drill, so the Rifles, with their Army-based ROTC training, were competing under unfamiliar rules. The ability of the Rifles to adjust to these changes and compete, let alone win, is nothing short of exceptional.

I also extend congratulations to Cadet Staff Sergeant Justin Shelton and Cadet Second Lieutenant Edward Boyd, who finished first and third in the individual exhibition respectively.

The Blue Ridge Rifles are a proud component of North Georgia College and State University, an dedicated educational institution renowned for its excellent ROTC program. Mr. President, I encourage my colleagues to join me in honoring this fine organization of young Americans as they celebrate their latest triumph.●

TRIBUTE TO THE FIRST PRESBYTERIAN CHURCH OF PITTSBURGH

● Mr. SANTORUM. Mr. President, this year marks the 225th anniversary of the First Presbyterian Church of Pittsburgh. Today I rise to congratulate the church on their many years of faithful service.

The First Presbyterian Church of Pittsburgh has a long and esteemed history of reaching out and ministering to those in need. Over the years, the congregation has faithfully given themselves to advance the good of the city. Their impact is evident in the many lives they have so graciously touched along the way.

Mr. President, I ask my colleagues to join with me in extending the Senate's best wishes to the people of the First Presbyterian Church of Pittsburgh and commending them on their 225 years of dedicated service to the city of Pittsburgh. With God's help, their legacy will carry on for another 225 years.●

RECOGNIZING ANDY WILLIAMS

● Mr. WELLSTONE. Mr. President, I speak today to recognize Andy Williams, an individual who along with only seven others in the nation, has received the National Crime Prevention Council's Ameritech, Award of Excellence in Crime Prevention.

Andy, while employed as a cab driver, made a decision in 1989 that inner-city youth needed both good role models and more chances to learn. He has since devoted his time, energy, and limited resources to the city of St. Paul's young people. Youth in St. Paul have benefited by the creation of his first program, Worker's Organization to Regain Confidence (WORC). After working a 7 or 8 hour day in his cab, he used it to collect kids from school and take them to miscellaneous jobs he had set up for them, providing an alternative to after-school delinquency and crime. Kids took on various jobs such as cleaning windows for a local business, running a lawn service, delivering dinners, learning how to repair small engines, and shovel snow. These programs usually involved 12 to 14 participants.

A successful year later, he expanded WORC into a non-profit organization, guiding at-risk youth in the St. Paul communities of Frogtown and Summit-University. WORC and his newly created subsidiary, SOCK (Save Our City Kids), cooperate with other non-profits to provide work skills, peer counseling, and apprenticeship opportunities. These help the students develop self-confidence, self-respect, and more of the skills crucial to becoming self-sufficent.

Andy has since created several other fruitful programs which continue to benefit the community. His innovations have enabled him and several hundred students to achieve a vision which reflects the nature of the Ameritech Award. His efforts and commitment are a great example for those who wish to make a difference in their own communities. The other programs include: WORC on Bikes, the Drop-In-Center, the Let's Talk program, and Whiz Kids. WORC on Bikes is a program in which youth learn to repair bicycles and eventually earn their own bikes. The Drop-In-Center is a place where any adult or child can stop and discuss personal concerns, such as family problems, alcohol and drug abuse, and violence. The Let's Talk program empowers youth, teenagers, adults, and parents by providing the tools with which solutions to social problems can begin to be addressed. Whiz Kids is a community-based computer education program which makes technology more accessible to youth, while assisting them in developing related skills to prepare them for future endeavors. It is funded entirely through private donations.

Clearly, Andy was selected for this award for his ability to truly make a difference, to persevere, to work for positive results in the lives of youth in the realm of crime prevention and far beyond. On behalf of the children and families who have profited from his exemplary efforts to better various communities in St. Paul, my thanks for his devoted and lasting contribution to the future of our children, and my congratulations on his well-deserved award.●

TRIBUTE TO COMMANDER LILIA L. RAMIRZ, U.S. NAVY

● Mr. D'AMATO. Mr. President, I welcome this opportunity to pay tribute to Commander Lilia L. Ramirez, U.S. Navy, who is retiring after eighteen years of distinguished service to this nation. She stands out as a pioneer, a leader and an outstanding role model for young people in uniform.

Lilia's United States Navy career is testament to a true American success story. She was born in Bogota, Columbia and emigrated to the U.S. when she was just five years old. Her parents, Alvaro and Ana Ramirez fled the violence in the Columbian countryside in the early 1960's in search if a new life of security and promise for their children in America. With little more than an optimistic spirit. Al and Ana settled in Bayshore, New York where they went on to raise five extraordinary citizens. Through hard work, determination and a deep commitment to each other the Ramirez family actualized their dreams of America.

The eldest of five children, Lilia spoke only Spanish when he arrived in New York as a five year old. Yet Lilia excelled throughout her public education career, graduating with distinction from Brentwood high School and

accepting an appointment to the U.S. Navel Academy as a member of the class of 1981. She was a member of Annapolis' second coeduation class.

As a new Ensign, Lilia sailed for the Navel Communications Area Master Station Western Pacific in Guam, the first of three overseas assignments. While in Guam, Lilia was deployed to the Indian Ocean abroad the submarine U.S.S. *Proteus,* with only a handful of women. After crossing the Equator, she was proudly initiated as a Trusty Shell back in a time-honored sea faring ceremony.

European assignments followed and, while stationed in England as a Navy-Air Force Liasion Officer at RAF Mildenhall, Lilia and two other Annapolis classmates saved the life of an elderly Briton. During their evening of liberty, they discovered the Briton who had collapsed from a heart attack. Next, Lilia served at the U.S. European Command in Stuttgart, Germany as the Officer-in Charge of the Navy-Marine Corps Elements at the headquarters' manpower and personnel directorate. While in Stuttgart, she provided crucial after-action reporting and personnel support in the wake of a terrorist murder of our Navel Attache in Greece and the U.S. Marine Barracks bombing in Beirut.

After five years, Lilia returned to the Washington D.C. area to serve in several assignments, including: the Navy Telecommunications Center at Crystal City, which was the Navy's largest message center; the Navy's Bureau of Personnel, where she was personally involved in assigning a record number of women officers to pursue advanced technical degrees at the Naval Postgraduate School; the Joint Chief of Staff's Command, Control and Communications Systems Directorate. While on the Joint Staff, Lilia coordinated the installation of command and control systems in the field offices of Customs, DEA and the North American Air Defense Command as part of our national anti-drug policy.

In 1990, Lilia was assigned as Officer-in-Charge of the Personnel Support Detachment at Naval Air Station Whidbey Island, in the State of Washington. In this tour, she was responsible for the pay, travel and career advancements matters of 8,000 service members and their families. Lilia returned to the Washington, D.C. area again in 1992, where she served as the base-commander of the Navel Communications Unit Chetenham, a 230-acre facility in rural Maryland. At Cheltenham, 300 personnel and 19 tenant commands where under her jurisdiction. She also environmentally protected the wetlands at her base and hosted the local Boy Scout Troop.

In 1994, Lilia began a tour in the Secretary of the Navy's Office of Legislative Affairs. Lilia was responsible for representing the command, control, communications and tactical intelligence programs to the defense and intelligence committees of both the House and Senate. In addition to numerous informational visits to the Naval communications and intelligence facilities throughout the United States, Europe and Japan, Lilia escorted Congressional delegations to the refugee camps in Guantanomo Bay, Cuba and later to the national elections in Nicaragua. In 1997, as a member of the team from the U.S. Naval Academy, she visited Peru to advise the Peruvian Navy on integrating women into their naval academy.

As the first U.S. Naval woman to attend the Inter-American Defense College, Lilia again helped blaze a trail for all women. Named as the ambassador of the U.S. Navy, she combined her native Spanish fluency and experience in nation security affairs to impress her Latin American counterparts. She forged lasting relationships with key civilian and military leaders of Latin America and left them with enduring, positive memories of women as military professionals.

Lilia's personal decorations include the Defense Meritorious Service Medal, the Meritorious Service Medal, the Joint Service Commendation Medal and the Navy Commendation Medal (three awards).

The United States, as a nation, owes a great debt of gratitude to Lilia Ramirez whose example will inspire women, Hispanics and all Americans seeking public service and whose work will have a lasting impact on our armed forces for years to come. While we will miss her distinguished career in uniform, we will no doubt continue to enjoy her commitment to her community and Nation. I wish to recognize her entire family, including her father Alvaro, her mother Ana (whom we lost this year to cancer), her brothers Michael and Henry and her sisters Angela and Ana Tulita who are all great American success stories of their own right. Best wishes to Lilia, her husband Randall Lovdahl (Commander, U.S. Navy) and her children Bianca and Beau as they mark this special milestone.●

DELAYING THE IMPLEMENTATION OF SECTION 110 OF THE ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT OF 1996

● Mr. MOYNIHAN. Mr. President, I am opposed to implementing section 110 of the Immigration Reform Act of 1996. Its implementation would create widespread chaos and lead to untold congestion at our Northern borders' checkpoints, potentially creating havoc with our largest trading partner, Canada.

Each year, more than eight million trucks cross the eastern United States-Canada border carrying a variety of goods to market. In addition, the Eastern Border Transportation Coalition estimates that over 57 million cars cross that border each year. Sixty percent of these are day trips—people crossing the border to go to work or school, attend cultural events or to shop. The remaining forty percent of auto border crossings were by vacationers.

If implemented, an automated entry-exit system along the northern border would hamper both trade and tourism. This is not inconsequential. The United States-Canadian trade relationship is the largest in the world, totalling $272 billion in 1995. Compare this to $256 billion in trade for the entire European Union during that same period and one gets an idea of how important this relationship is and why it must remain unfettered by chaotic checkpoints.●

WETLANDS AND WILDLIFE CONSERVATION ACT

● Mr. GRAMS. Mr. President, I rise today having learned of last night's unanimous consent request on S. 1677—The Wetlands and Wildlife Conservation Act of 1998.

As you know, S. 1677 reauthorizes the North American Wetlands Conservation Act (NAWCA) for the next five years. Mr. President, over its eight year history NAWCA has been a lynchpin in our nations efforts to preserve habitat and protect wildlife.

NAWCA has been a very good program for wildlife, for conservation, and for American taxpayers. For every one dollar of federal money, the program obtains on average a match of another two dollars from private partners. According to Ducks Unlimited, over 550 projects nationwide have been initiated with NAWCA funding. In 1996, 76.9 million individuals took part in wildlife-associated activities, creating over $100 billion in expenditures for our economy. Additionally, in 1996, over 40 million sportsmen and women spent over $70 billion in recreational expenditures and millions more Americans spent billions in non-sport activities associated with wildlife.

My home state of Minnesota, in particular, has benefited from NAWCA. Over its eight-year life, NAWCA funding of $18.4 million has stimulated private partners to contribute over $25 million more to habitat projects. In 1996, 1.6 million Minnesotans participated in wildlife-associated activities, creating $3.6 billion in expenditures throughout the state.

But beyond the economic benefits NAWCA provides are the important environmental aspects to the program. The decline in duck, geese, and other waterfowl populations in the early 1980s created the catalyst for the program. By protecting nearly 3.7 million acres of habitat since its creation, NAWCA has helped restore waterfowl populations to their highest level in half a century. In fact, state and federal surveys this past year counted 42 million breeding ducks, the highest level since surveys began in 1955, according to the U.S. Department of the Interior.

I was proud to join my colleagues this past April in cosponsoring S. 1677. I am even more proud to come to the

floor today knowing the bill has passed the United States Senate and will continue to protect habitat and wildlife well into the future.●

RECOGNIZING BETTE WAHL

● Mr. KOHL. Mr. President, I rise today to recognize a woman who has been honored as one of only seven Americans to receive the National Crime Prevention Council's Ameritech Award of excellence in Crime Prevention.

Bette Wahl is an enthusiastic youth advocate and a strong voice in the Eau Claire community for crime prevention. While her words are powerful and persuasive, her actions prove her dedication to the youth of Eau Claire, Wisconsin. Mrs. Wahl is the Project Coordinator for the Eau Claire Coalition for Youth. The Coalition is a collaboration of 28 agencies which address the recreational, educational, and social needs of youth and family. Under Mrs. Wahl's guidance, creativity, and energy, the Coalition has grown and become a true asset to the community.

Bette Wahl has created innovative youth crime prevention programs, enlisting the support of senior citizens in her community. In 1994, Seniors Partnering with Youth brought young and old together to work on service projects that benefit the community. This program provides an alternative activity to crime and delinquency, helps youth serve the community, and develops the values of compassion, respect, and responsibility. Bette also created two pilot youth employment programs which serve as gang and delinquency diversion programs. Through one of the programs, Youth Works, young people build self-esteem, pride, and responsibility.

Bette has displayed her extraordinary passion and skill while developing effective crime prevention programs in the Eau Claire community. Eau Claire's chief of police, David Malone, called Bette ''phenomenal'' saying that ''she seems to have a unique talent for bringing out the best in people and getting them to reach a solution.'' She succeeds where others fail by influencing and inspiring others with her energy and creativity, thereby achieving a positive and permanent change in the crime prevention field.

Bette recognizes that greater communication and integration of services enables a community to achieve tangible benefits in crime prevention. Sixty percent of juveniles in her truancy reduction program experienced an increase in school attendance; she has provided community service opportunities for 369 youth in another program, and she organizes two youth job fairs each year to match youth with area businesses for entry level jobs.

Mrs. Wahl's hard work in crime prevention encourages youth, adults, businesses, government agencies, community organizations, and schools to participate in a community-wide partnership to help Eau Claire's youth realize their full potential. On behalf of all those affected by her work and in honor of her recent award, congratulations, Bette Wahl.●

RECOGNIZING MR. MORRIS AMITAY, DISTINGUISHED PRO-ISRAEL ACTIVIST

● Mr. SPECTER. Mr. President, I was happy to read a recent article in the Washington Jewish Week, Guide to Jewish Life in Washington, 1998–1999, about Morrie Amitay and his tireless work toward improving the bonds between the United States and Israel.

I have known Morrie since my earliest days on Capitol Hill and have had the opportunity to witness many of his accomplishments. Morrie's career is indeed impressive. During his years at Harvard Law School, Morrie developed a strong interest in United States foreign policy. This led to a career with the U.S. Foreign Service, where he served the U.S. embassies in both Italy and South Africa. Morrie's talents were quickly noted and he was promoted rapidly. In 1969, Morrie turned his attention to Capitol Hill where he took a position as a legislative assistant in the House of Representatives.

In 1974, while working as an aide for Senator Abraham Ribicoff, Morrie was instrumental in crafting the Jackson-Vanik Amendment—part of the Trade Act of 1974—which provided for an increase of Jewish immigrants from the then-religiously oppressive Soviet Union, into the United States.

Another significant achievement of Morrie's was to become executive director of AIPAC, the American Israel Public Affairs Committee. During Morrie's tenure at AIPAC, the political action committee grew to be one of the most successful interest groups in Washington, D.C. His current work involves educating the American Jewish community on defense issues, and also strengthening the strategic ties between the defense establishments of the United States and Israel. This important work is accomplished through his position as vice chairman at the Jewish Institute for National Security Affairs.

Mr. President, I am privileged to be a friend of Morrie Amitay and I am proud to stand before you today and recognize his successful career. I offer congratulations to Morrie and best wishes for the future.●

TRIBUTE TO PATRICIA HYLTON

● Mr. FAIRCLOTH. Mr. President, I rise to commend a former member of my staff, Patricia Hylton, who has recently been named manager of the Refuse To Be A Victim program. Trish was an invaluable member of my office, and I'm certain that she will be successful in making Refuse To Be A Victim a beneficial program for women across the country.

While working in my office, Trish became interested in developing crime awareness and prevention programs for women. Regrettably, such efforts are needed. The statistics are frightening. Seventy-three percent of women will be victimized at some point in their lives. Seventy-three percent. One million women are stalked each year in the United States. Figures such as these call for decisive action.

I am proud to recognize a program that empowers women with a strategy to ensure their own personal safety. Refuse To Be A Victim is a superior safety tool and thousands of women are safer because of their participation. Refuse To Be A Victim is sponsored by the National Rifle Association. The program is not, however, about firearms. Instead, Refuse To Be A Victim offers women the knowledge necessary to avoid being victimized.

This program is taught throughout the United States an in my home state nine men and women instruct hundreds of North Carolinians each year. I'm pleased that Trish has committed herself to such a worthwhile program. And I hope that many more American women will take advantage of this exceptional learning experience.●

CBO COST ANALYSIS—S. 2361

● Mr. CHAFEE. Mr. President, on September 11, 1998, the Committee on Environmental and Public Works filed Senate Report 105–326, to accompany S. 2361, the Disaster Mitigation Act of 1998. When the report was filed, the letter and analysis of the cost of the legislation prepared by the Congressional Budget Office, as required by Section 403 of the Congressional Budget and Impoundment Control Act, was not available to the committee. That information was received on September 29, 1998. Therefore, I request that the letter from the Congressional Budget Office and cost analysis be placed in the CONGRESSIONAL RECORD.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 29, 1998.

Hon. JOHN H. CHAFEE,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 2361, the Disaster Mitigation Act of 1998.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Kristen Layman (for federal costs) and Lisa Cash Driskill (for the state and local impact).

Sincerely,

JUNE E. O'NEILL,
Director.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE, SEPTEMBER 29, 1998

S. 2361: DISASTER MITIGATION ACT OF 1998

(As ordered reported by the Senate Committee on Environment and Public Works on July 29, 1998)

SUMMARY

S. 2361 would amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to authorize a predisaster mitigation

program and make changes to the existing disaster relief program.

S. 2361 would emphasize predisaster mitigation in order to reduce the long-run costs of disasters. If the authorized funding for mitigation efforts is provided and used judiciously, enactment of this bill could lead to substantial savings to the federal government by reducing the need for future disaster relief funds. CBO cannot estimate the magnitude of such savings because we cannot predict either the frequency or incidence of major natural disasters.

The bill would authorize the appropriation of $175 million ($35 million a year) over fiscal years 1998 through 2002 for a predisaster mitigation program. In addition to these specified authorizations, other provisions in S. 2361 would result in changes in discretionary spending, assuming appropriation of the necessary amounts. In total, CBO estimates that implementing S. 2361 would require net new appropriations of $585 million over the 1999–2003 period: $140 million from the amounts specified in the bill ($175 million minus the 1998 authorization of $35 million) and $445 million from other provisions. That spending may be offset by savings in regular and emergency appropriations for disaster relief, but CBO cannot estimate the timing or precise amounts of the potential savings. Over the next 10 years, such savings could exceed the $140 million that the bill would authorize for predisaster mitigation efforts over fiscal years 1999 through 2002.

S. 2361 also would affect direct spending by speeding up the disbursement of some existing disaster relief funds; therefore, pay-as-you-go procedures would apply. CBO estimates that outlays from such funds would be $230 million higher in 1999 than they would be under current law, but that there would be no net change in direct spending from this provision over the 1999–2003 period. S. 2361 would affect direct spending in two other ways that would have no significant budgetary impact. It would expand the definition of public safety officer to include certain federal and state emergency management personnel, thereby increasing payments for death benefits from the public safety officers program administered by the Department of Justice. The bill also would raise offsetting receipts by an estimated $3 million each year, but that increase would be matched by higher spending because the Federal Emergency Management Agency (FEMA) would be allowed to spend those receipts without appropriation action.

S. 2361 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would significantly benefit the budgets of state, local, and tribal governments.

DESCRIPTION OF THE BILL'S MAJOR PROVISIONS

Title I would establish a program to provide financial assistance to state and local governments for predisaster mitigation activities. The predisaster mitigation program would expire on October 1, 2003. S. 2361 would require the President to transmit a report to the Congress that would evaluate efforts to implement the predisaster hazard mitigation programs and recommend a process for transferring greater authority over the program to states.

Title I also would remove a yearly cap of $50,000 per state on the grants that the President makes for improving and maintaining disaster assistance plans and would increase the maximum federal contribution for mitigation costs from 15 percent to 20 percent.

Title II would combine any expenses not chargeable to a specific project into a single category called management costs. It would direct the President to establish standard rates for reimbursing states for such costs.

In addition, title II would reduce the federal government's share of costs for repairing damaged facilities from 90 percent to 75 percent, but would allow the President the flexibility to make the contribution as much as 90 percent if the President determines that funds will be used for mitigation activities. Title II would also allow the President to use the estimated cost of repairing or replacing a facility, rather than the actual cost, to determine the level of assistance to provide. S. 2361 would establish an expert panel to develop procedures for estimating the cost of repairing a facility.

Title II would combine the Temporary Housing Assistance (THA) and Individual and Family Grant (IFG) programs into one program, and would eliminate the community disaster loan program, a program that assists any local government that has suffered a substantial loss of tax revenues as a result of a major disaster.

Finally, title II would authorize the President to provide assistance to any local government that helps to suppress a fire that threatens the destruction of public or private forests and grasslands.

Title III would expand the definition of public safety officer to include permanent employees of FEMA and employees of state or local emergency management agencies whose duties are determined to be hazardous and related to a major disaster. As a result, more employees would be eligible for death, disability, and education benefits.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

CBO estimates that implementing S. 2361 would result in additional discretionary outlays of $582 million over the 1999–2003 period ($137 million from authorizations specified in the bill and $445 million from other provisions). These costs are likely to be at least partially offset by future savings resulting from predisaster mitigation efforts, but CBO cannot estimate the magnitude or timing of such savings. S. 2361 would speed up spending of certain existing funds and would thus affect direct spending. However, we estimate no net change over the 1999–2003 period from that timing shift. S. 2361 would also increase offsetting receipts and direct spending of such receipts by approximately $3 million each year from 1999 through 2003.

The estimated budgetary impact of certain provisions in S. 2361 is shown in the following table. The table does not reflect some potential savings and costs from provisions that may affect discretionary spending but for which CBO cannot estimate the likely effects. In particular, we cannot estimate the potential savings in the costs of future disaster relief from the increased spending on predisaster mitigation activities that would be authorized by S. 2361. The costs of this legislation fall within budget function 450 (community and regional development).

[By fiscal year, in millions of dollars]

	1998	1999	2000	2001	2002	2003
SPENDING SUBJECT TO APPROPRIATION						
Spending for Disaster Relief Under Current Law:						
Budget Authority/Authorization Level [1]	1,920	327	335	344	352	361
Estimated Outlays	2,00	2,580	2,060	1,741	1,211	844
Proposed Changes:						
Specified Authorization for Predisaster Mitigation:						
Authorization Level	0	35	35	35	35	0
Estimated Outlays	0	18	32	35	35	17
Estimated Authorizations:						
Authorization Level	0	197	62	62	62	62
Estimated Outlays	0	197	62	62	62	62
Spending for Disaster Relief Under S. 2361:						
Estimated Authorization Level	1,920	559	432	441	449	423
Estimated Outlays	2,000	2,795	2,154	1,838	1,308	923
CHANGES IN DIRECT SPENDING						
Estimated Budget Authority	0	0	0	0	0	0
Estimated Outlays	0	230	([2])	−138	−92	([2])

[1] The 1998 level is the amount appropriated for that year, including $1.6 billion for an emergency supplemental appropriation provided in Public Law 105–74. The remainder of the 1998 level is the regular appropriation of $320 million. The levels shown for 1999 through 2003 are CBO baseline projections assuming increases for anticipated inflation. Alternatively, if the comparison were made to a baseline without discretionary inflation, the current law authorization level would be $320 million each year, but the incremental cost of the bill would be the same.

[2] Less than $500,000.

BASIS OF ESTIMATE

For the purposes of this estimate, CBO assumes that S. 2361 will be enacted near the beginning of fiscal year 1999, and that the amounts authorized and estimated to be necessary will be appropriated near the start of each fiscal year.

Spending Subject to Appropriation

S. 2361 contains provisions that would result in both costs and savings to the federal government. CBO estimates costs associated with provisions that would: Authorize appropriations for predisaster mitigation, increase the federal contribution for mitigation costs, combine the Individual Family Grant program and the Temporary Housing Assistance program, remove a cap on grants for disaster assistance plans, and increase certain disability and education benefits by expanding the definition of public safety officers.

CBO estimates savings associated with provisions that would: Allow the President to use the estimated cost of repairs rather than the actual cost, and eliminate the community disaster loan program.

CBO cannot estimate the discretionary effects of provisions that would: Achieve long-run savings associated with the predisaster mitigation efforts, encourage provision of financial assistance rather than provision of housing units, establish standardized rates for reimbursement of management costs, provide grants for the testing and application of hazard identification technologies, establish a pilot program to determine the desirability of state administration of parts of the disaster relief program, and authorize

the President to provide fire suppression assistance to local governments.

Provisions with Estimated Costs. Under current law, 15 percent of the estimated amount of grants made with respect to a major disaster would be provided to the state for post-disaster mitigation activities. S. 2361 would increase this percentage to 20 percent for all major disasters declared after March 1, 1997. FEMA spent $332 million for post-disaster mitigation from March 1, 1997, to August 31, 1998. If the contribution were raised by one-third, the federal government would make an additional $111 million in grants for its share of mitigation activities during this period. To assess future costs, CBO based its projection on the average annual amount of such expenses over the last five calendar years—$313 million. Using that five-year average, the rate increase from 15 percent to 20 percent would require increased funding for the federal contribution of $104 million a year over the next several years. In total, CBO estimates that implementing this provision would require the appropriation of $655 million over the 1999–2003 period: $135 million for the 1997–1998 period and $520 million for the 1999–2003 period. This estimate assumes that the funds to pay for the provision would come from future appropriations.

CBO estimates that combining the Individual Family Grant program and the Temporary Housing Assistance program would result in additional costs of approximately $40 million per year from 1999 through 2003. Under current law, the federal share for the IFG program is 75 percent of the actual cost incurred. Combining the IFG and THA programs would change the federal match to 100 percent.

CBO estimates that the costs associated with removing the yearly cap of $50,000 per state on the grants that are made to states for improvement of disaster assistance plans would be about $1 million per year. FEMA currently provides the maximum $50,000 grant to each state for disaster assistance planning. Under S. 2361, FEMA would no longer be bound by the cap and might increase spending on state disaster assistance programs, although such spending is subject to appropriation. Additional spending on state disaster assistance plans could result in future savings if improving these disaster plans reduces FEMA's long-run costs.

S. 2361 would make certain federal and state emergency management employees eligible for disability and education benefits. Enacting the legislation could increase payments of these benefits, assuming appropriation of any necessary amounts. CBO estimates that the effect on discretionary spending would be less than $500,000 a year because the number of additional people qualifying for these benefits would likely be very small.

Provisions with Estimated Savings. CBO estimates that allowing the President to use the estimated cost of repairing a facility, rather than the actual cost, to determine the level of assistance to provide would result in savings of approximately $56 million per year. According to FEMA, reliance on the estimated cost rather than the actual cost of repair would reduce the administrative burden on the agency. S. 2361 would also establish an expert panel, including representatives from the construction industry, to develop procedures for estimating the cost of repairing a facility. If the actual costs of repair are greater than 120 percent or less than 80 percent of the estimated costs, CBO assumes that FEMA could receive compensation for overpayments or provide compensation for underpayments. Savings from this provision may be partially offset by the additional costs of establishing an expert panel, estimating the cost of repairs with more precision, and evaluating the accuracy of estimates. CBO estimates that this provision would result in an overall 25 percent reduction in administrative costs after accounting for additional costs described above.

Based on data provided by FEMA, CBO estimates that eliminating the community disaster loan program would result in savings of approximately $23 million each year from 1999 through 2003.

Provisions with Effects CBO Cannot Estimate. The potential budgetary effects of various provisions of S. 2361 are uncertain because they depend upon the extent and nature of future disasters, the manner in which the Administration would implement certain provisions, and the extent to which states would participate in certain programs.

CBO cannot estimate the potential savings associated with the predisaster mitigation efforts proposed in this bill. Mitigation efforts could achieve substantial savings if damages from future disasters are lessened as a result of the predisaster mitigation measures provided for in the bill. In addition, S. 2361 would encourage the provision of financial assistance to disaster victims for rental of alternative housing accommodations rather than directly providing housing units. CBO expects that this provision would result in savings, but we cannot estimate the amount of the savings. Finally, S. 2361 also would establish standardized reimbursement rates that would reduce the administrative burden of compensating states for indirect costs not chargeable to a specific project. This provision is also likely to result in some savings in FEMA's administrative costs, but CBO has no basis for estimating the likely amount of such savings.

In addition, S. 2361 would authorize grants for 50 percent of the cost of testing new hazard identification technologies (such as improved floodplain mapping technologies) and would establish a pilot program for the devolution of certain responsibilities to the states. At this time, CBO cannot estimate the costs associated with these provisions, or any potential savings that might later accrue from implementing them.

Finally, based on information from FEMA, CBO estimates that the provision authorizing the President to provide additional assistance to local governments for fire suppression would probably have no significant net budgetary impact. Additional costs for providing this assistance are likely to be at least partially offset by administrative savings; but CBO cannot estimate the precise net effect of this provision.

Direct Spending

Enacting S. 2361 would affect direct spending by speeding up the disbursement of funds that have already been appropriated for post-disaster mitigation under section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act. The bill would allow the President to use such funds for the predisaster mitigation program if the funds are not obligated within 30 months after the declaration of the disaster for which they were provided. Based on information from FEMA, CBO estimates that currently approximately $460 million would be eligible for use by the predisaster mitigation program under this provision. Under S. 2361, CBO expects that those funds would be spent between 1999 and 2001, instead of between 2000 and 2002, as under current law. Outlays would increase by $230 million in 1999 and drop by an equal amount over fiscal years 2001 and 2002. The net direct spending effect of this provision would be zero over the 1999–2003 period. More funds, in addition to the estimated $460 million, could become available in the future for shifts to predisaster mitigation activity, but we cannot estimate the likely amount. Finally, this provision could lead to an increase in future appropriations to replenish the disaster relief fund's resources for post-disaster mitigation, but the magnitude and timing of any such effect is uncertain.

In addition, the bill would change the definition of public safety officer to include permanent employees of FEMA and employees of a state or local emergency management agency whose duties are determined to be hazardous and related to a major disaster or emergency. CBO estimates that any change in direct spending would be less than $500,000 a year because the number of additional beneficiaries is likely to be very small.

The bill would expand FEMA's authority to sell temporary housing. Under the Balanced Budget Act of 1997, proceeds from nonroutine asset sales may be counted as a reduction in direct spending for pay-as-you-go purposes only if such sales would entail no net financial cost to the government. CBO estimates that the sale of temporary housing under S. 2361 would not result in a net cost to the government. Based on data provided by FEMA detailing the sale of manufactured homes and trailers, CBO estimates that this provision would result in increased offsetting receipts of approximately $3 million each year. Because the agency could then spend the new receipts, without appropriation action, this provision would have no net effect on direct spending.

The provision relating to sales of temporary housing would direct the President to deposit all receipts from such sales into the disaster relief fund, where they could be spent without further appropriation. Under current law, any receipts obtained are deposited into the general fund of the Treasury (and thus are not available for spending). This change would result in increased direct spending related to sales that would occur under current law. But based on information from FEMA, CBO estimates that any such effect would be insignificant because receipts from sales under existing authority are expected to be negligible.

PAY-AS-YOU-GO CONSIDERATIONS

The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in outlays that are subject to pay-as-you-go procedures are shown in the following table. The use of existing unexpended balances for predisaster mitigation will increase outlays in 1999, but have no net impact over the next five years. CBO estimates that other effects on direct spending would be less than $500,000 a year. (Enacting the bill would not affect governmental receipts.) 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.

[By fiscal year, in millions of dollars]

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Changes in outlays	0	230	0	−138	−92	0	0	0	0	0	0
Changes in receipts	Not applicable										

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

S. 2361 contains no intergovernmental mandates as defined in UMRA and would significantly benefit the budgets of state, local, and tribal governments. The bill would authorize $175 million over the next five years to assist in predisaster mitigation projects, and the percentage of funds available for post-disaster mitigation activities would be increased. The 25 percent state matching requirements for individual and family grants and certain housing assistance would no longer be required, reducing the burden on states by an estimated $40 million per year.

The bill would also amend the definition of public facilities to exclude public golf courses, making them no longer eligible for funding under the Stafford Act. In addition, states or local governments which take longer than three years after declaration of a major disaster to file a claim for assistance would be subject to a potential reduction in the federal government's share of their claim.

ESTIMATED IMPACT ON THE PRIVATE SECTOR

The bill would impose no new private-sector mandates as defined in UMRA.

PREVIOUS CBO ESTIMATE

On August 5, 1998, CBO prepared a cost estimate for H.R. 3869, the Disaster Mitigation Act of 1998, as ordered reported by the House Committee on Transportation and Infrastructure on June 25, 1998. H.R. 3869 differs from S. 2361 in that it would provide higher authorization levels for the predisaster mitigation program and would add new restrictions to the funds that a private nonprofit facility could receive for repair and replacement of damaged facilities. H.R. 3869 does not contain provisions that would affect fire suppression assistance and public safety officer benefits as S. 2361 does. Other differences in the two bills do not affect the cost estimates.

Estimate prepared by: Federal Costs: Kristen Layman, Impact on State, Local, and Tribal Governments: Lisa Cash Driskill.

Estimate approved by: Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.●

EXTENDING THE DATE BY WHICH AN AUTOMATED ENTRY-EXIT CONTROL SYSTEM MUST BE DEVELOPED

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. 2540, introduced earlier today by Senators ABRAHAM and KENNEDY.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2540) to extend the date by which an automated entry-exit control system must be developed.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mrs. HUTCHISON. I ask unanimous consent the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at this point in the RECORD.

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

The bill (S. 2540) was read the third time and passed, as follows:

S. 2540

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF DATE FOR DEVELOPMENT OF AUTOMATED ENTRY-EXIT CONTROL SYSTEM.

Section 110 of division C of Public Law 104–208 is amended by striking ''2 years after the date of enactment of this Act'' and inserting ''October 15, 1999.

ORDER FOR STAR PRINT—S. 1637

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that S. 1637 be star printed with the changes that are at the desk.

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

OCEAN SHIPPING REFORM ACT OF 1998

Mrs. HUTCHISON. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on the bill (S. 414) to amend the Shipping Act of 1984 to encourage competition in international shipping and growth of United States exports, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 414) entitled ''An Act to amend the Shipping Act of 1984 to encourage competition in international shipping and growth of United States exports, and for other purposes'', do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Ocean Shipping Reform Act of 1998''.

SEC. 2. EFFECTIVE DATE.

Except as otherwise expressly provided in this Act, this Act and the amendments made by this Act take effect May 1, 1999.

TITLE I—AMENDMENTS TO THE SHIPPING ACT OF 1984

SEC. 101. PURPOSE.

Section 2 of the Shipping Act of 1984 (46 U.S.C. App. 1701) is amended by—

(1) striking ''and'' after the semicolon in paragraph (2);

(2) striking ''needs.'' in paragraph (3) and inserting ''needs; and'';

(3) adding at the end thereof the following:

''(4) to promote the growth and development of United States exports through competitive and efficient ocean transportation and by placing a greater reliance on the marketplace.''.

SEC. 102. DEFINITIONS.

Section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702) is amended by—

(1) striking ''the government under whose registry the vessels of the carrier operate;'' in paragraph (8) and inserting ''a government;'';

(2) striking paragraph (9) and inserting the following:

''(9) 'deferred rebate' means a return by a common carrier of any portion of freight money to a shipper as a consideration for that shipper giving all, or any portion, of its shipments to that or any other common carrier over a fixed period of time, the payment of which is deferred beyond the completion of service for which it is paid, and is made only if the shipper has agreed to make a further shipment or shipments with that or any other common carrier.'';

(3) striking paragraph (10) and redesignating paragraphs (11) through (27) as paragraphs (10) through (26);

(4) striking ''in an unfinished or semifinished state that require special handling moving in lot sizes too large for a container,'' in paragraph (10), as redesignated;

(5) striking ''paper board in rolls, and paper in rolls.'' in paragraph (10) as redesignated and inserting ''paper and paper board in rolls or in pallet or skid-sized sheets.'';

(6) striking ''conference, other than a service contract or contract based upon time-volume rates,'' in paragraph (13) as redesignated and inserting ''agreement'';

(7) striking ''conference.'' in paragraph (13) as redesignated and inserting ''agreement and the contract provides for a deferred rebate arrangement.'';

(8) by striking ''carrier.'' in paragraph (14) as redesignated and inserting ''carrier, or in connection with a common carrier and a water carrier subject to subchapter II of chapter 135 of title 49, United States Code.'';

(9) striking paragraph (16) as redesignated and redesignating paragraphs (17) through (26) as redesignated as paragraphs (16) through (25), respectively;

(10) striking paragraph (17), as redesignated, and inserting the following:

''(17) 'ocean transportation intermediary' means an ocean freight forwarder or a non-vessel-operating common carrier. For purposes of this paragraph, the term—

''(A) 'ocean freight forwarder' means a person that—

''(i) in the United States, dispatches shipments from the United States via a common carrier and books or otherwise arranges space for those shipments on behalf of shippers; and

''(ii) processes the documentation or performs related activities incident to those shipments; and

''(B) 'non-vessel-operating common carrier' means a common carrier that does not operate the vessels by which the ocean transportation is provided, and is a shipper in its relationship with an ocean common carrier.'';

(11) striking paragraph (19), as redesignated and inserting the following:

''(19) 'service contract' means a written contract, other than a bill of lading or a receipt, between one or more shippers and an individual ocean common carrier or an agreement between or among ocean common carriers in which the shipper or shippers makes a commitment to provide a certain volume or portion of cargo over a fixed time period, and the ocean common carrier or the agreement commits to a certain rate or rate schedule and a defined service level, such as assured space, transit time, port rotation, or similar service features. The contract may also specify provisions in the event of nonperformance on the part of any party.''; and

(12) striking paragraph (21), as redesignated, and inserting the following:

''(21) 'shipper' means—

''(A) a cargo owner;

''(B) the person for whose account the ocean transportation is provided;

''(C) the person to whom delivery is to be made;

''(D) a shippers' association; or

''(E) an ocean transportation intermediary, as defined in paragraph (17)(B) of this section, that accepts responsibility for payment of all charges applicable under the tariff or service contract.''.

SEC. 103. AGREEMENTS WITHIN THE SCOPE OF THE ACT.

(a) OCEAN COMMON CARRIERS.—Section 4(a) of the Shipping Act of 1984 (46 U.S.C. App. 1703(a)) is amended by—

(1) striking ''operators or non-vessel-operating common carriers;'' in paragraph (5) and inserting ''operators;'';

(2) striking ''and'' in paragraph (6) and inserting ''or''; and

(3) striking paragraph (7) and inserting the following:

''(7) discuss and agree on any matter related to service contracts.''.

(b) MARINE TERMINAL OPERATORS.—Section 4(b) of that Act (46 U.S.C. App. 1703(b)) is amended by—

(1) striking ''(to the extent the agreements involve ocean transportation in the foreign commerce of the United States)'';

(2) striking ''and'' in paragraph (1) and inserting ''or''; and

(3) striking ''arrangements.'' in paragraph (2) and inserting ''arrangements, to the extent that such agreements involve ocean transportation in the foreign commerce of the United States.''.

SEC. 104. AGREEMENTS.

(a) IN GENERAL.—Section 5 of the Shipping Act of 1984 (46 U.S.C. App. 1704) is amended by—

(1) striking subsection (b)(8) and inserting the following:

''(8) provide that any member of the conference may take independent action on any rate or service item upon not more than 5 calendar days' notice to the conference and that, except for exempt commodities not published in the conference tariff, the conference will include the new rate or service item in its tariff for use by that member, effective no later than 5 calendar days after receipt of the notice, and by any other member that notifies the conference that it elects to adopt the independent rate or service item on or after its effective date, in lieu of the existing conference tariff provision for that rate or service item;

(2) redesignating subsections (c) through (e) as subsections (d) through (f); and

(3) inserting after subsection (b) the following:

''(c) OCEAN COMMON CARRIER AGREEMENTS.—An ocean common carrier agreement may not—

''(1) prohibit or restrict a member or members of the agreement from engaging in negotiations for service contracts with 1 or more shippers;

''(2) require a member or members of the agreement to disclose a negotiation on a service contract, or the terms and conditions of a service contract, other than those terms or conditions required to be published under section 8(c)(3) of this Act; or

''(3) adopt mandatory rules or requirements affecting the right of an agreement member or agreement members to negotiate and enter into service contracts.

An agreement may provide authority to adopt voluntary guidelines relating to the terms and procedures of an agreement member's or agreement members' service contracts if the guidelines explicitly state the right of members of the agreement not to follow the guidelines. These guidelines shall be confidentially submitted to the Commission.''.

(b) APPLICATION.—

(1) Subsection (e) of section 5 of that Act, as redesignated, is amended by striking ''this Act, the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933, do'' and inserting ''this Act does''; and

(2) Subsection (f) of section 5 of that Act, as redesignated, is amended by—

(A) striking ''and the Shipping Act, 1916, do'' and inserting ''does'';

(B) striking ''or the Shipping Act, 1916,''; and

(C) inserting ''or are essential terms of a service contract'' after ''tariff''.

SEC. 105. EXEMPTION FROM ANTITRUST LAWS.

Section 7 of the Shipping Act of 1984 (46 U.S.C. App. 1706) is amended by—

(1) inserting ''or publication'' in paragraph (2) of subsection (a) after ''filing'';

(2) striking ''or'' at the end of subsection (b)(2);

(3) striking ''States.'' at the end of subsection (b)(3) and inserting ''States; or''; and

(4) adding at the end of subsection (b) the following:

''(4) to any loyalty contract.''.

SEC. 106. TARIFFS.

(a) IN GENERAL.—Section 8(a) of the Shipping Act of 1984 (46 U.S.C. App. 1707(a)) is amended by—

(1) inserting ''new assembled motor vehicles,'' after ''scrap,'' in paragraph (1);

(2) striking ''file with the Commission, and'' in paragraph (1);

(3) striking ''inspection,'' in paragraph (1) and inserting ''inspection in an automated tariff system,'';

(4) striking ''tariff filings'' in paragraph (1) and inserting ''tariffs'';

(5) striking ''freight forwarder'' in paragraph (1)(C) and inserting ''transportation intermediary, as defined in section 3(17)(A),'';

(6) striking ''and'' at the end of paragraph (1)(D);

(7) striking ''loyalty contract,'' in paragraph (1)(E);

(8) striking ''agreement.'' in paragraph (1)(E) and inserting ''agreement; and'';

(9) adding at the end of paragraph (1) the following:

''(F) include copies of any loyalty contract, omitting the shipper's name.''; and

(10) striking paragraph (2) and inserting the following:

''(2) Tariffs shall be made available electronically to any person, without time, quantity, or other limitation, through appropriate access from remote locations, and a reasonable charge may be assessed for such access. No charge may be assessed a Federal agency for such access.''.

(b) SERVICE CONTRACTS.—Subsection (c) of that section is amended to read as follows:

''(c) SERVICE CONTRACTS.—

''(1) IN GENERAL.—An individual ocean common carrier or an agreement between or among ocean common carriers may enter into a service contract with one or more shippers subject to the requirements of this Act. The exclusive remedy for a breach of a contract entered into under this subsection shall be an action in an appropriate court, unless the parties otherwise agree. In no case may the contract dispute resolution forum be controlled by or in any way affiliated with a controlled carrier as defined in section 3(8) of this Act, or by the government which owns or controls the carrier.

''(2) FILING REQUIREMENTS.—Except for service contracts dealing with bulk cargo, forest products, recycled metal scrap, new assembled motor vehicles, waste paper, or paper waste, each contract entered into under this subsection by an individual ocean common carrier or an agreement shall be filed confidentially with the Commission. Each service contract shall include the following essential terms—

''(A) the origin and destination port ranges;

''(B) the origin and destination geographic areas in the case of through intermodal movements;

''(C) the commodity or commodities involved;

''(D) the minimum volume or portion;

''(E) the line-haul rate;

''(F) the duration;

''(G) service commitments; and

''(H) the liquidated damages for nonperformance, if any.

''(3) PUBLICATION OF CERTAIN TERMS.—When a service contract is filed confidentially with the Commission, a concise statement of the essential terms described in paragraphs 2 (A), (C), (D), and (F) shall be published and made available to the general public in tariff format.

''(4) DISCLOSURE OF CERTAIN TERMS.—

''(A) An ocean common carrier, which is a party to or is subject to the provisions of a collective bargaining agreement with a labor organization, shall, in response to a written request by such labor organization, state whether it is responsible for the following work at dock areas and within port areas in the United States with respect to cargo transportation under a service contract described in paragraph (1) of this subsection—

''(i) the movement of the shipper's cargo on a dock area or within the port area or to or from railroad cars on a dock area or within the port area;

''(ii) the assignment of intraport carriage of the shipper's cargo between areas on a dock or within the port area;

''(iii) the assignment of the carriage of the shipper's cargo between a container yard on a dock area or within the port area and a rail yard adjacent to such container yard; and

''(iv) the assignment of container freight station work and container maintenance and repair work performed at a dock area or within the port area.

''(B) The common carrier shall provide the information described in subparagraph (A) of this paragraph to the requesting labor organization within a reasonable period of time.

''(C) This paragraph requires the disclosure of information by an ocean common carrier only if there exists an applicable and otherwise lawful collective bargaining agreement which pertains to that carrier. No disclosure made by an ocean common carrier shall be deemed to be an admission or agreement that any work is covered by a collective bargaining agreement. Any dispute regarding whether any work is covered by a collective bargaining agreement and the responsibility of the ocean common carrier under such agreement shall be resolved solely in accordance with the dispute resolution procedures contained in the collective bargaining agreement and the National Labor Relations Act, and without reference to this paragraph.

''(D) Nothing in this paragraph shall have any effect on the lawfulness or unlawfulness under this Act, the National Labor Relations Act, the Taft-Hartley Act, the Federal Trade Commission Act, the antitrust laws, or any other Federal or State law, or any revisions or amendments thereto, of any collective bargaining agreement or element thereof, including any element that constitutes an essential term of a service contract under this subsection.

''(E) For purposes of this paragraph the terms 'dock area' and 'within the port area' shall have the same meaning and scope as in the applicable collective bargaining agreement between the requesting labor organization and the carrier.''.

(c) RATES.—Subsection (d) of that section is amended by—

(1) striking the subsection caption and inserting ''(d) TARIFF RATES.—'';

(2) striking ''30 days after filing with the Commission.'' in the first sentence and inserting ''30 calendar days after publication.'';

(3) inserting ''calendar'' after ''30'' in the next sentence; and

(4) striking ''publication and filing with the Commission.'' in the last sentence and inserting ''publication.''.

(d) REFUNDS.—Subsection (e) of that section is amended by—

(1) striking ''tariff of a clerical or administrative nature or an error due to inadvertence'' in paragraph (1) and inserting a comma; and

(2) striking ''file a new tariff,'' in paragraph (1) and inserting ''publish a new tariff, or an error in quoting a tariff,'';

(3) striking ''refund, filed a new tariff with the Commission'' in paragraph (2) and inserting ''refund for an error in a tariff or a failure to publish a tariff, published a new tariff'';

(4) inserting ''and'' at the end of paragraph (2); and

(5) striking paragraph (3) and redesignating paragraph (4) as paragraph (3).

(e) MARINE TERMINAL OPERATOR SCHEDULES.—Subsection (f) of that section is amended to read as follows:

''(f) MARINE TERMINAL OPERATOR SCHEDULES.—A marine terminal operator may make available to the public, subject to section 10(d) of this Act, a schedule of rates, regulations, and practices, including limitations of liability for cargo loss or damage, pertaining to receiving,

delivering, handling, or storing property at its marine terminal. Any such schedule made available to the public shall be enforceable by an appropriate court as an implied contract without proof of actual knowledge of its provisions.''.

(f) AUTOMATED TARIFF SYSTEM REQUIREMENTS; FORM.—Section 8 of that Act is amended by adding at the end the following:

''(g) REGULATIONS.—The Commission shall by regulation prescribe the requirements for the accessibility and accuracy of automated tariff systems established under this section. The Commission may, after periodic review, prohibit the use of any automated tariff system that fails to meet the requirements established under this section. The Commission may not require a common carrier to provide a remote terminal for access under subsection (a)(2). The Commission shall by regulation prescribe the form and manner in which marine terminal operator schedules authorized by this section shall be published.''.

SEC. 107. AUTOMATED TARIFF FILING AND INFORMATION SYSTEM.

Section 502 of the High Seas Driftnet Fisheries Enforcement Act (46 U.S.C. App. 1707a) is repealed.

SEC. 108. CONTROLLED CARRIERS.

Section 9 of the Shipping Act of 1984 (46 U.S.C. App. 1708) is amended by—

(1) striking ''service contracts filed with the Commission'' in the first sentence of subsection (a) and inserting ''service contracts, or charge or assess rates,'';

(2) striking ''or maintain'' in the first sentence of subsection (a) and inserting ''maintain, or enforce'';

(3) striking ''disapprove'' in the third sentence of subsection (a) and inserting ''prohibit the publication or use of''; and

(4) striking ''filed by a controlled carrier that have been rejected, suspended, or disapproved by the Commission'' in the last sentence of subsection (a) and inserting ''that have been suspended or prohibited by the Commission'';

(5) striking ''may take into account appropriate factors including, but not limited to, whether—'' in subsection (b) and inserting ''shall take into account whether the rates or charges which have been published or assessed or which would result from the pertinent classifications, rules, or regulations are below a level which is fully compensatory to the controlled carrier based upon that carrier's actual costs or upon its constructive costs. For purposes of the preceding sentence, the term 'constructive costs' means the costs of another carrier, other than a controlled carrier, operating similar vessels and equipment in the same or a similar trade. The Commission may also take into account other appropriate factors, including but not limited to, whether—'';

(6) striking paragraph (1) of subsection (b) and redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively;

(7) striking ''filed'' in paragraph (1) as redesignated and inserting ''published or assessed'';

(8) striking ''filing with the Commission.'' in subsection (c) and inserting ''publication.'';

(9) striking ''DISAPPROVAL OF RATES.—'' in subsection (d) and inserting ''PROHIBITION OF RATES.—Within 120 days after the receipt of information requested by the Commission under this section, the Commission shall determine whether the rates, charges, classifications, rules, or regulations of a controlled carrier may be unjust and unreasonable.'';

(10) striking ''filed'' in subsection (d) and inserting ''published or assessed'';

(11) striking ''may issue'' in subsection (d) and inserting ''shall issue'';

(12) striking ''disapproved.'' in subsection (d) and inserting ''prohibited.'';

(13) striking ''60'' in subsection (d) and inserting ''30'';

(14) inserting ''controlled'' after ''affected'' in subsection (d);

(15) striking ''file'' in subsection (d) and inserting ''publish'';

(16) striking ''disapproval'' in subsection (e) and inserting ''prohibition'';

(17) inserting ''or'' after the semicolon in subsection (f)(1);

(18) striking paragraphs (2), (3), and (4) of subsection (f); and

(19) redesignating paragraph (5) of subsection (f) as paragraph (2).

SEC. 109. PROHIBITED ACTS.

(a) Section 10(b) of the Shipping Act of 1984 (46 U.S.C. App. 1709(b)) is amended by—

(1) striking paragraphs (1) through (3);

(2) redesignating paragraph (4) as paragraph (1);

(3) inserting after paragraph (1), as redesignated, the following:

''(2) provide service in the liner trade that—

''(A) is not in accordance with the rates, charges, classifications, rules, and practices contained in a tariff published or a service contract entered into under section 8 of this Act unless excepted or exempted under section 8(a)(1) or 16 of this Act; or

''(B) is under a tariff or service contract which has been suspended or prohibited by the Commission under section 9 of this Act or the Foreign Shipping Practices Act of 1988 (46 U.S.C. App. 1710a);'';

(4) redesignating paragraphs (5) and (6) as paragraphs (3) and (4), respectively;

(5) striking ''except for service contracts,'' in paragraph (4), as redesignated, and inserting ''for service pursuant to a tariff,'';

(6) striking ''rates;'' in paragraph (4)(A), as redesignated, and inserting ''rates or charges;'';

(7) inserting after paragraph (4), as redesignated, the following:

''(5) for service pursuant to a service contract, engage in any unfair or unjustly discriminatory practice in the matter of rates or charges with respect to any port;'';

(8) redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively;

(9) striking paragraph (6) as redesignated and inserting the following:

''(6) use a vessel or vessels in a particular trade for the purpose of excluding, preventing, or reducing competition by driving another ocean common carrier out of that trade;'';

(10) striking paragraphs (9) through (13) and inserting the following:

''(8) for service pursuant to a tariff, give any undue or unreasonable preference or advantage or impose any undue or unreasonable prejudice or disadvantage;

''(9) for service pursuant to a service contract, give any undue or unreasonable preference or advantage or impose any undue or unreasonable prejudice or disadvantage with respect to any port;

''(10) unreasonably refuse to deal or negotiate;'';

(11) redesignating paragraphs (14), (15), and (16) as paragraphs (11), (12), and (13), respectively;

(12) striking ''a non-vessel-operating common carrier'' in paragraphs (11) and (12) as redesignated and inserting ''an ocean transportation intermediary'';

(13) striking ''sections 8 and 23'' in paragraphs (11) and (12) as redesignated and inserting ''sections 8 and 19'';

(14) striking ''or in which an ocean transportation intermediary is listed as an affiliate'' in paragraph (12), as redesignated;

(15) striking ''Act;'' in paragraph (12), as redesignated, and inserting ''Act, or with an affiliate of such ocean transportation intermediary;''

(16) striking ''paragraph (16)'' in the matter appearing after paragraph (13), as redesignated, and inserting ''paragraph (13)''; and

(17) inserting ''the Commission,'' after ''United States,'' in such matter.

(b) Section 10(c) of the Shipping Act of 1984 (46 U.S.C. App. 1709(c)) is amended by—

(1) striking ''non-ocean carriers'' in paragraph (4) and inserting ''non-ocean carriers, unless such negotiations and any resulting agreements are not in violation of the antitrust laws and are consistent with the purposes of this Act'';

(2) striking ''freight forwarder'' in paragraph (5) and inserting ''transportation intermediary, as defined by section 3(17)(A) of this Act,'';

(3) striking ''or'' at the end of paragraph (5);

(4) striking ''contract.'' in paragraph (6) and inserting ''contract;''; and

(5) adding at the end the following:

''(7) for service pursuant to a service contract, engage in any unjustly discriminatory practice in the matter of rates or charges with respect to any locality, port, or persons due to those persons' status as shippers' associations or ocean transportation intermediaries; or

''(8) for service pursuant to a service contract, give any undue or unreasonable preference or advantage or impose any undue or unreasonable prejudice or disadvantage with respect to any locality, port, or persons due to those persons' status as shippers' associations or ocean transportation intermediaries;''.

(c) Section 10(d) of the Shipping Act of 1984 (46 U.S.C. App. 1709(d)) is amended by—

(1) striking ''freight forwarders,'' and inserting ''transportation intermediaries,'';

(2) striking ''freight forwarder,'' in paragraph (1) and inserting ''transportation intermediary,'';

(3) striking ''subsection (b)(11), (12), and (16)'' and inserting ''subsections (b)(10) and (13)''; and

(4) adding at the end thereof the following:

''(4) No marine terminal operator may give any undue or unreasonable preference or advantage or impose any undue or unreasonable prejudice or disadvantage with respect to any person.

''(5) The prohibition in subsection (b)(13) of this section applies to ocean transportation intermediaries, as defined by section 3(17)(A) of this Act.''.

SEC. 110. COMPLAINTS, INVESTIGATIONS, REPORTS, AND REPARATIONS.

Section 11(g) of the Shipping Act of 1984 (46 U.S.C. App. 1710(g)) is amended by—

(1) striking ''section 10(b)(5) or (7)'' and inserting ''section 10(b)(3) or (6)''; and

(2) striking ''section 10(b)(6)(A) or (B)'' and inserting ''section 10(b)(4)(A) or (B).''.

SEC. 111. FOREIGN SHIPPING PRACTICES ACT OF 1988.

Section 10002 of the Foreign Shipping Practices Act of 1988 (46 U.S.C. App. 1710a) is amended by—

(1) striking '''non-vessel-operating common carrier','' in subsection (a)(1) and inserting '''ocean transportation intermediary','';

(2) striking ''forwarding and'' in subsection (a)(4);

(3) striking ''non-vessel-operating common carrier'' in subsection (a)(4) and inserting ''ocean transportation intermediary services and'';

(4) striking ''freight forwarder,'' in subsections (c)(1) and (d)(1) and inserting ''transportation intermediary,'';

(5) striking ''filed with the Commission,'' in subsection (e)(1)(B) and inserting ''and service contracts,'';

(6) inserting ''and service contracts'' after ''tariffs'' the second place it appears in subsection (e)(1)(B); and

(7) striking ''(b)(5)'' each place it appears in subsection (h) and inserting ''(b)(6)''.

SEC. 112. PENALTIES.

(a) Section 13(a) of the Shipping Act of 1984 (46 U.S.C. App. 1712(a)) is amended by adding at the end thereof the following: ''The amount of any penalty imposed upon a common carrier under this subsection shall constitute a lien upon the vessels operated by that common carrier and any such vessel may be libeled therefore in the district court of the United States for the district in which it may be found.''.

(b) Section 13(b) of the Shipping Act of 1984 (46 U.S.C. App. 1712(b)) is amended by—

(1) striking ''section 10(b)(1), (2), (3), (4), or (8)'' in paragraph (1) and inserting ''section 10(b)(1), (2), or (7)'';

(2) by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively;

(3) inserting before paragraph (5), as redesignated, the following:

''(4) If the Commission finds, after notice and an opportunity for a hearing, that a common carrier has failed to supply information ordered to be produced or compelled by subpoena under section 12 of this Act, the Commission may request that the Secretary of the Treasury refuse or revoke any clearance required for a vessel operated by that common carrier. Upon request by the Commission, the Secretary of the Treasury shall, with respect to the vessel concerned, refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91).''; and

(4) striking ''paragraphs (1), (2), and (3)'' in paragraph (6), as redesignated, and inserting ''paragraphs (1), (2), (3), and (4)''.

(c) Section 13(f)(1) of the Shipping Act of 1984 (46 U.S.C. App. 1712(f)(1)) is amended by—

(1) striking ''or (b)(4)'' and inserting ''or (b)(2)'';

(2) striking ''(b)(1), (4)'' and inserting ''(b)(1), (2)''; and

(3) adding at the end thereof the following ''Neither the Commission nor any court shall order any person to pay the difference between the amount billed and agreed upon in writing with a common carrier or its agent and the amount set fourth in any tariff or service contract by that common carrier for the transportation service provided.''.

SEC. 113. REPORTS AND CERTIFICATES.

Section 15 of the Shipping Act of 1984 (46 U.S.C. App. 1714) is amended by—

(1) striking ''and certificates'' in the section heading;

(2) striking ''(a) REPORTS.—'' in the subsection heading for subsection (a); and

(3) striking subsection (b).

SEC. 114. EXEMPTIONS.

Section 16 of the Shipping Act of 1984 (46 U.S.C. App. 1715) is amended by striking ''substantially impair effective regulation by the Commission, be unjustly discriminatory, result in a substantial reduction in competition, or be detrimental to commerce.'' and inserting ''result in substantial reduction in competition or be detrimental to commerce.''.

SEC. 115. AGENCY REPORTS AND ADVISORY COMMISSION.

Section 18 of the Shipping Act of 1984 (46 U.S.C. App. 1717) is repealed.

SEC. 116. OCEAN FREIGHT FORWARDERS.

Section 19 of the Shipping Act of 1984 (46 U.S.C. App. 1718) is amended by—

(1) striking ''freight forwarders'' in the section caption and inserting ''transportation intermediaries'';

(2) striking subsection (a) and inserting the following:

''(a) LICENSE.—No person in the United States may act as an ocean transportation intermediary unless that person holds a license issued by the Commission. The Commission shall issue an intermediary's license to any person that the Commission determines to be qualified by experience and character to act as an ocean transportation intermediary.'';

(3) redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively;

(4) inserting after subsection (a) the following:

''(b) FINANCIAL RESPONSIBILITY.—

''(1) No person may act as an ocean transportation intermediary unless that person furnishes a bond, proof of insurance, or other surety in a form and amount determined by the Commission to insure financial responsibility that is issued by a surety company found acceptable by the Secretary of the Treasury.

''(2) A bond, insurance, or other surety obtained pursuant to this section—

''(A) shall be available to pay any order for reparation issued pursuant to section 11 or 14 of this Act, or any penalty assessed pursuant to section 13 of this Act;

''(B) may be available to pay any claim against an ocean transportation intermediary arising from its transportation-related activities described in section 3(17) of this Act with the consent of the insured ocean transportation intermediary and subject to review by the surety company, or when the claim is deemed valid by the surety company after the ocean transportation intermediary has failed to respond to adequate notice to address the validity of the claim; and

''(C) shall be available to pay any judgment for damages against an ocean transportation intermediary arising from its transportation-related activities under section 3(17) of this Act, provided the claimant has first attempted to resolve the claim pursuant to subparagraph (B) of this paragraph and the claim has not been resolved within a reasonable period of time.

''(3) The Commission shall prescribe regulations for the purpose of protecting the interests of claimants, ocean transportation intermediaries, and surety companies with respect to the process of pursuing claims against ocean transportation intermediary bonds, insurance, or sureties through court judgments. The regulations shall provide that a judgment for monetary damages may not be enforced except to the extent that the damages claimed arise from the transportation-related activities of the insured ocean transportation intermediary, as defined by the Commission.

''(4) An ocean transportation intermediary not domiciled in the United States shall designate a resident agent in the United States for receipt of service of judicial and administrative process, including subpoenas.'';

(5) striking, each place such term appears—

(A) ''freight forwarder'' and inserting ''transportation intermediary'';

(B) ''a forwarder's'' and inserting ''an intermediary's'';

(C) ''forwarder'' and inserting ''intermediary''; and

(D) ''forwarding'' and inserting ''intermediary'';

(6) striking ''a bond in accordance with subsection (a)(2).'' in subsection (c), as redesignated, and inserting ''a bond, proof of insurance, or other surety in accordance with subsection (b)(1).'';

(7) striking ''FORWARDERS.—'' in the caption of subsection (e), as redesignated, and inserting ''INTERMEDIARIES.—'';

(8) striking ''intermediary'' the first place it appears in subsection (e)(1), as redesignated and as amended by paragraph (5)(A), and inserting ''intermediary, as defined in section 3(17)(A) of this Act,'';

(9) striking ''license'' in paragraph (1) of subsection (e), as redesignated, and inserting ''license, if required by subsection (a),'';

(10) striking paragraph (3) of subsection (e), as redesignated, and redesignating paragraph (4) as paragraph (3); and

(11) adding at the end of subsection (e), as redesignated, the following:

''(4) No conference or group of 2 or more ocean common carriers in the foreign commerce of the United States that is authorized to agree upon the level of compensation paid to an ocean transportation intermediary, as defined in section 3(17)(A) of this Act, may—

''(A) deny to any member of the conference or group the right, upon notice of not more than 5 calendar days, to take independent action on any level of compensation paid to an ocean transportation intermediary, as so defined; or

''(B) agree to limit the payment of compensation to an ocean transportation intermediary, as so defined, to less than 1.25 percent of the aggregate of all rates and charges which are applicable under a tariff and which are assessed against the cargo on which the intermediary services are provided.''.

SEC. 117. CONTRACTS, AGREEMENTS, AND LICENSES UNDER PRIOR SHIPPING LEGISLATION.

Section 20 of the Shipping Act of 1984 (46 U.S.C. App. 1719) is amended by—

(1) striking subsection (d) and inserting the following:

''(d) EFFECTS ON CERTAIN AGREEMENTS AND CONTRACTS.—All agreements, contracts, modifications, licenses, and exemptions previously issued, approved, or effective under the Shipping Act, 1916, or the Shipping Act of 1984, shall continue in force and effect as if issued or effective under this Act, as amended by the Ocean Shipping Reform Act of 1998, and all new agreements, contracts, and modifications to existing, pending, or new contracts or agreements shall be considered under this Act, as amended by the Ocean Shipping Reform Act of 1998.'';

(2) inserting the following at the end of subsection (e):

''(3) The Ocean Shipping Reform Act of 1998 shall not affect any suit—

''(A) filed before the effective date of that Act; or

''(B) with respect to claims arising out of conduct engaged in before the effective date of that Act filed within 1 year after the effective date of that Act.

''(4) Regulations issued by the Federal Maritime Commission shall remain in force and effect where not inconsistent with this Act, as amended by the Ocean Shipping Reform Act of 1998.''.

SEC. 118. SURETY FOR NON-VESSEL-OPERATING COMMON CARRIERS.

Section 23 of the Shipping Act of 1984 (46 U.S.C. App. 1721) is repealed.

TITLE II—AUTHORIZATION OF APPROPRIATIONS FOR THE FEDERAL MARITIME COMMISSION

SEC. 201. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1998.

There are authorized to be appropriated to the Federal Maritime Commission, $15,000,000 for fiscal year 1998.

SEC. 202. FEDERAL MARITIME COMMISSION ORGANIZATION.

Section 102(d) of Reorganization Plan No. 7 of 1961 (75 Stat. 840) is amended to read as follows:

''(d) A vacancy or vacancies in the membership of Commission shall not impair the power of the Commission to execute its functions. The affirmative vote of a majority of the members serving on the Commission is required to dispose of any matter before the Commission.''.

SEC. 203. REGULATIONS.

Not later than March 1, 1999, the Federal Maritime Commission shall prescribe final regulations to implement the changes made by this Act.

TITLE III—AMENDMENTS TO OTHER SHIPPING AND MARITIME LAWS

SEC. 301. AMENDMENTS TO SECTION 19 OF THE MERCHANT MARINE ACT, 1920.

(a) IN GENERAL.—Section 19 of the Merchant Marine Act, 1920 (46 U.S.C. App. 876) is amended by—

(1) striking ''forwarding and'' in subsection (1)(b);

(2) striking ''non-vessel-operating common carrier operations,'' in subsection (1)(b) and inserting ''ocean transportation intermediary services and operations,'';

(3) striking ''methods or practices'' and inserting ''methods, pricing practices, or other practices'' in subsection (1)(b);

(4) striking ''tariffs of a common carrier'' in subsection 7(d) and inserting ''tariffs and service contracts of a common carrier'';

(5) striking ''use the tariffs of conferences'' in subsections (7)(d) and (9)(b) and inserting ''use tariffs of conferences and service contracts of agreements'';

(6) striking ''tariffs filed with the Commission'' in subsection (9)(b) and inserting ''tariffs and service contracts'';

(7) striking ''freight forwarder,'' each place it appears and inserting ''transportation intermediary,''; and

(8) striking ''tariff'' each place it appears in subsection (11) and inserting ''tariff or service contract''.

(b) STYLISTIC CONFORMITY.—Section 19 of the Merchant Marine Act, 1920 (46 U.S.C. App. 876), as amended by subsection (a), is further amended by—

(1) redesignating subdivisions (1) through (12) as subsections (a) through (l), respectively;

(2) redesignating subdivisions (a), (b), and (c) of subsection (a), as redesignated, as paragraphs (1), (2), and (3);

(3) redesignating subdivisions (a) through (d) of subsection (f), as redesignated, as paragraphs (1) through (4), respectively;

(4) redesignating subdivisions (a) through (e) of subsection (g), as redesignated, as paragraphs (1) through (5), respectively;

(5) redesignating clauses (i) and (ii) of subsection (g)(4), as redesignated, as subparagraphs (A) and (B), respectively;

(6) redesignating subdivisions (a) through (e) of subsection (i), as redesignated, as paragraphs (1) through (5), respectively;

(7) redesignating subdivisions (a) and (b) of subsection (j), as redesignated, as paragraphs (1) and (2), respectively;

(8) striking ''subdivision (c) of paragraph (1)'' in subsection (c), as redesignated, and inserting ''subsection (a)(3)'';

(9) striking ''paragraph (2)'' in subsection (c), as redesignated, and inserting ''subsection (b)'';

(10) striking ''paragraph (1)(b)'' each place it appears and inserting ''subsection (a)(2)'';

(11) striking ''subdivision (b),'' in subsection (g)(4), as redesignated, and inserting ''paragraph (2),'';

(12) striking ''paragraph (9)(d)'' in subsection (j)(1), as redesignated, and inserting ''subsection (i)(4)''; and

(13) striking ''paragraph (7)(d) or (9)(b)'' in subsection (k), as redesignated, and inserting ''subsection (g)(4) or (i)(2)''.

SEC. 302. TECHNICAL CORRECTIONS.

(a) PUBLIC LAW 89–777.—Sections 2 and 3 of the Act of November 6, 1966 (46 U.S.C. App. 817d and 817e) are amended by striking ''they in their discretion'' each place it appears and inserting ''it in its discretion''.

(b) TARIFF ACT OF 1930.—Section 641(i) of the Tariff Act of 1930 (19 U.S.C. 1641) is repealed.

TITLE IV—CERTAIN LOAN GUARANTEES AND COMMITMENTS

SEC. 401. CERTAIN LOAN GUARANTEES AND COMMITMENTS.

(a) The Secretary of Transportation may not issue a guarantee or commitment to guarantee a loan for the construction, reconstruction, or reconditioning of a liner vessel under the authority of title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1271 et seq.) after the date of enactment of this Act unless the Chairman of the Federal Maritime Commission certifies that the operator of such vessel—

(1) has not been found by the Commission to have violated section 19 of the Merchant Marine Act, 1920 (46 U.S.C. App. 876), or the Foreign Shipping Practices Act of 1988 (46 U.S.C. App. 1701a), within the previous 5 years; and

(2) has not been found by the Commission to have committed a violation of the Shipping Act of 1984 (46 U.S.C. App. 1701 et seq.), which involves unjust or unfair discriminatory treatment or undue or unreasonable prejudice or disadvantage with respect to a United States shipper, ocean transportation intermediary, ocean common carrier, or port within the previous 5 years.

(b) The Secretary of Commerce may not issue a guarantee or a commitment to guarantee a loan for the construction, reconstruction, or reconditioning of a fishing vessel under the authority of title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1271 et seq.) if the fishing vessel operator has been—

(1) held liable or liable in rem for a civil penalty pursuant to section 308 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1858) and not paid the penalty;

(2) found guilty of an offense pursuant to section 309 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1859) and not paid the assessed fine or served the assessed sentence;

(3) held liable for a civil or criminal penalty pursuant to section 105 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1375) and not paid the assessed fine or served the assessed sentence; or

(4) held liable for a civil penalty by the Coast Guard pursuant to title 33 or 46, United States Code, and not paid the assessed fine.

Mrs. HUTCHISON. Mr. President, S. 414 is my bill that was passed by the Senate. It was passed by the House. It is now back in the conference, and there will be an amendment.

American ports and carriers are disadvantaged by current laws that require all contracts to be public. To avoid this, shippers who conveniently can, will ship out of foreign ports in nearby Canada and Mexico to avoid this. U.S. ports are bypassed and the U.S. carriers lose business because only U.S. companies have to reveal their ocean transportation costs. This permits their foreign competition to undercut our shippers.

Recent economic problems in Asia will increase pressure in those countries to increase their exports. Therefore, S. 414 will be even more important as our shippers meet the heightened competitive challenge.

S. 414 attempts to level the playing field between U.S. companies which export and their foreign competitors.

This bill will encourage greater competition among carriers. It will provide American exporters and importers with greater choice in obtaining ocean transportation services, and promote more ocean shipping activity for our carriers and our ports.

In providing our shippers with this important reform, we have still attempted to preserve anti-discrimination provisions in current law and the elements of our current ''transparent'' system that protect our ports, smaller shippers and U.S. workers. This bill balances the need to have enough transparency to assure fair pricing with contract privacy.

Our shippers say they want more flexibility in dealing with their ocean carriers, and the ability to go outside the traditional tariff system and conference structure. We've provided this needed confidentiality, but balanced it with protections for ports and U.S. dock workers who seek information on the movement of commodities to protect their competitive position.

Ninety-five percent of U.S. foreign commerce is transported via ocean shipping. Half of this trade, which is carried by container liner vessels with scheduled service and is regulated under the Shipping Act of 1984, is affected by these reforms. This bill represents the first major reform of this critical industry in a decade, and the most significant change to the underlying statute since 1984.

Mr. President, I am proud to have worked with the distinguished Majority Leader and colleagues from both sides of the aisle to pass this important legislation.

I would like to commend, in addition to the Majority Leader, the ranking member of the full Commerce Committee, Senator HOLLINGS, the ranking member of the Surface Transportation and Merchant Marine Subcommittee, Senator INOUYE, and my colleague from Louisiana, Senator BREAUX, for their hard work in putting together meaningful legislation that we're passing today.

I am very pleased we have now worked this important bill out. I think it will certainly help our economy.

I ask unanimous consent the Senate concur in the amendment of the House.

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

Mr. LOTT. Mr. President, I rise to acknowledge today's passage of the Ocean Shipping Reform Act. This action sets America's maritime industry on the right course. It increases competition for U.S. exporters by allowing America's exporters to compete on a level playing field with foreign entities. It has been fourteen years since Congress tackled comprehensive ocean shipping reform for the commercial sector. Since most of the world's commerce travels by sea, and the industry has changed so much during that period, additional reform is long since overdue. This legislation will update, revise, and improve upon the Shipping Act of 1984. It ensures fairness for U.S. carriers and shippers by modernizing America's ocean shipping regulatory system.

The Ocean Shipping Reform Act represents true compromise. This legislative effort brought together many divergent interests—parties who often do not agree with one another. As my colleagues can attest to, achieving mutually beneficial reform was not an easy task. The process was difficult and sometimes arduous. It was, however, a necessary and important legislative journey for our nation's ocean shipping industry. In the end, all affected parties rolled-up their sleeves and worked hard to develop an equitable solution. The result is a consensus bill that received the solid backing of all industry segments including U.S. shippers, American and foreign ocean carriers, ports nation-wide, and U.S. labor. The 105th Congress' passage of this compromise measure represents a milestone in maritime policy. Everyone involved can be proud of this significant accomplishment.

I would like to take this opportunity to express my thanks to the many individuals from industry and labor who participated in this endeavor. I also want to congratulate the many Senators and staff who worked on this bill.

I particularly want to express my gratitude to Senator MCCAIN, Senator KAY BAILEY HUTCHISON and Senator GORTON who worked diligently to deliver to the U.S. shipping industry and to all Americans real maritime reform. I also want to recognize the efforts of Chairman SHUSTER of the House Committee on Transportation and Infrastructure who spearheaded this reform effort in the House of Representatives.

Mr. President, the Ocean Shipping Reform Act of 1998 focuses on the needs of America's small, medium, and large shippers, carriers, U.S. ports, and on our nation's dock workers. It will ensure that the collective power of some industry elements will not be allowed to abuse other industry segments. The bill provides protection for small ports and small shippers through increased competition among shipping lines for export and import cargoes. It allows shipping lines and their customers to negotiate volume discount arrangements through the signing of confidential service contracts for transportation services without first obtaining the blessing of the shipping line conferences. This legislation gives shippers greater ability to shop around for the best rates and service from the carriers of their choice. Additionally, the bill continues current filing requirements for service contracts to provide continued FMC oversight of common carrier activities.

This legislation will retain common carrier tariff publication and enforcement while eliminating the requirement to file tariffs with the government. Common carriers would be able to take advantage of available modern technology by using a World Wide Web home page or an electronic bulletin board to satisfy the tariff publication requirement. This just makes common sense. It reduces the cost of doing business while maintaining protections for small shippers. The wide availability of competitive price and service information will make for a better informed shipping consumer.

The Ocean Shipping Reform Act of 1998 does much to ensure that America's presence in the shipping industry is not subjected to unfair foreign rules or discriminatory practices. The FMC's enforcement actions taken against unfair port practices in Japan illustrates the essential and unique mission that this agency performs. Even more recently, issues concerning Brazil and China have come on their radar screen. This is a function that will continue, a mission that I wholeheartedly support.

This legislation will significantly change the regulatory framework governing ocean transportation. It increases shipper and carrier flexibility and competitive options, ensures tariff accuracy and fairness, produces government efficiencies and provides genuine reform to protect American interests. These changes will strengthen the ability of common carriers to market their services and makes America's shippers more competitive. The Ocean Shipping Reform Act of 1998 makes sense for American businesses and consumers alike. It will help sustain a strong and vibrant American maritime industry—fostering economic growth and enhancing our national security for years to come.

Mr. MCCAIN. Mr. President, today I rise to praise the Senate for the final passage of S. 414, the Ocean Shipping Reform Act of 1998, and to clarify the legislative history of the bill with the Senator from Texas, who authorized the bill.

On April 21, 1998, the Senate first adopted S. 414. In her statement providing legislative history for the bill, the Senator from Texas identified a need to resolve the requirement for Federal agencies, including those in the Department of Defense, to ensure U.S.-flag ocean common carrier compliance with cargo preference law requirements concerning shipping rates with the new confidential service contracting regime authorized by S. 414., At that time, my colleague encouraged the Federal Maritime Commission to work with other Federal agencies to address this concern.

I'd like to ask the Senator from Texas to clarify the ability of the FMC to share confidential service contract rate and service information with other Federal agencies to ensure that U.S.-flag shipping rates for preference cargo shipments meet statutory requirements.

Mrs. HUTCHISON. Mr. President, I want to thank the distinguished Chairman of the Commerce Committee for raising this issue. The General Counsel of the FMC, in a recent written response to an inquiry on this issue with respect to the Department of Defense, stated:

> I have no doubt that we will be able to develop an intragovernmental system for providing the DOD with the pricing and service information it needs to effectively execute its mission, within the framework of S. 414. If we determine that technical legislative corrections would aid this process, we will no doubt make such recommendations jointly. At this time, however, I do not believe that any additional amendments to the bill are necessary to meet your concerns for the Department.

Mr. President, I want to make it clear that the FMC is authorized to share with another Federal agency service contract information that parties of the service contract have legally decided to protect from public disclosure in order to enable that Federal agency to ensure the compliance of U.S.-flag ocean common carriers with cargo preference law shipping rate requirements. Of course, that confidential service contract information would remain protected from disclosure to the public consistent with the Shipping Act of 1984, as amended by the Ocean Shipping Reform Act of 1998, and other applicable Federal laws.

Mr. MCCAIN. Mr. President, I'd like to thank my colleague from Texas for clarifying this issue. Also, I'd like to complement her on her efforts to protect the interests of the Department of Defense, other Federal agencies, and American taxpayers while reforming the ocean liner transportation system in a manner that encourages greater competition. The Ocean Shipping Reform Act of 1998 is a thoroughly crafted piece of legislation that required hard work by her and many others for more than 3 years. It is a worthy accomplishment for the 106th Congress.

RECOGNIZING ACCOMPLISHMENTS OF INSPECTORS GENERAL

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Joint Resolution 58, introduced earlier today by Senators GLENN, THOMPSON, COLLINS, and others.

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

The clerk will report.

The legislative clerk read as follows:

> A joint resolution (S.J. Res. 58) recognizing the accomplishments of Inspectors General since their creation in 1978 in preventing and detecting waste, fraud, abuse and mismanagement, and in promoting economy, efficiency and effectiveness in the Federal Government.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

• Mr. GLENN. Mr. President, I rise today to introduce a joint resolution commemorating the Inspector General Act in the year of its 20th anniversary. The Governmental Affairs Committee, on which I serve as Ranking Minority Member, has a long and bipartisan history with the IG community. In fact, I am very proud that I was an original sponsor of the IG Act and author of the 1988 amendments, both of which have played a major role in making our government function more efficiently, effectively, and with greater trust and confidence on the part of the American people. So, it is fitting that the Senate and House note this anniversary.

Throughout government, IGs have had tremendous success. I note just some of these accomplishments as follows, from the latest (1996) PCIE report:

> Inspector General (IG) investigations led to $1.5 billion in ''recoveries'' in 1995. (This is money which has been recovered by the Government from people who have attempted to defraud it). In addition, based on IG recommendations, agency managers agreed to cancel, or seek reimbursements of, $2.3 billion from contractors or grantees in 1995. Also based on IG recommendations, managers changed how they planned to spend $10.4 billion to maximize return on the Federal dollar. Overall, between 1981–1994, IG's reported $340 billion in recoveries & funds put to better use from their efforts.
>
> In addition to IG work on program improvements, and the figures cited above, the report compiles other important IG accomplishments from FY 1995: $26.8 billion in recommendations that funds be put to better

use; $7.2 billion in questioned costs; 14,122 successful prosecutions; 2,405 personnel actions; and 4,234 suspensions and debarments of persons or firms doing business with the Government.

These facts suggest that IGs are doing the job we intended them to do, in spite of the fact that they are operating in a very difficult and more complex environment. The data also support the fact that the IG's first responsibility continues to be program and fiscal integrity; they are not ''tools'' of management. Even though, in this day and age, IGs need to make themselves ''relevant'' to both Congress and the agency, they first must help to make good programs work better, target those most vulnerable to waste and fraud, and help achieve savings wherever they can find them. The record proves this is clearly what the IG's have been about.

The progress I have mentioned is particularly important since, if anything, the IG's role has only become more difficult in a new political culture dedicated to improving management. With the passage of the CFO Act, the Government Management Reform Act (GMRA), and the Government Performance and Results Act (GPRA), IGs have inherited some new authority and some new duties. They now have some responsibility to ensure that we have accurate, reliable, and complete financial information on which to base our policy decisions and, down the road, which measure how well each program achieves its goal and at what actual cost. In that context, IGs have a unique role in helping to solve management problems throughout the federal government. The test of their success in this new mission is much like the one applied to their old one and—as I have indicated—the measure of their success is already evident.

As I approach my last months as a United States Senator, I look back with great pride on the accomplishments we have made so far among the more than 60 statutory IGs. I am the first one to admit that the IGs do not function perfectly. In fact, any government operation can always stand improvement. But I strongly believe that we now have in place a fair, effective, and useful—if partial—solution to some very serious management problems in government. To me, this represents a singularly important success for the Congress and the American people, and one upon which I am hopeful we will continue to build into the 21st century and beyond.

I hope all Senators will join me in supporting this important resolution.●

Mrs. HUTCHISON. I ask unanimous consent that the joint resolution be read three times and passed, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD as if read in the appropriate place.

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

The joint resolution (S.J. Res. 58) was passed.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

S.J. RES. 58

Whereas the Inspector General Act of 1978 (5 U.S.C. App.) was signed into law on October 12, 1978, with overwhelming bipartisan support;

Whereas Inspectors General now exist in the 27 largest executive agencies and in 30 other designated Federal entities;

Whereas Inspectors General serve the American taxpayer by promoting economy, efficiency, effectiveness and integrity in the administration of the programs and operations of the Federal Government;

Whereas Inspectors General conduct and supervise audits and investigations to both prevent and detect waste, fraud and abuse in the programs and operations of the Federal Government;

Whereas Inspectors General make Congress and agency heads aware, through semiannual reports and other activities, of problems and deficiencies relating to the administration of programs and operations of the Federal Government;

Whereas Inspectors General work with Congress and agency heads to recommend policies to promote economy and efficiency in the administration of, or preventing and detecting waste, fraud and abuse in, the programs and operations of the Federal Government;

Whereas Inspectors General receive and investigate information from Federal employees and other dedicated citizens regarding the possible existence of an activity constituting a violation of law, rules, or regulations, or mismanagement, gross waste of funds, abuse of authority or a substantial and specific danger to public health and safety;

Whereas Inspector General actions result in, on a yearly basis, recommendations for several billions of dollars to be spent more effectively; thousands of successful criminal prosecutions; hundreds of millions of dollars returned to the United States Treasury through investigative recoveries; and the suspension and disbarment of thousands of individuals or entities from doing business with the Government;

Whereas for 20 years the Offices of Inspectors General have worked with Congress to facilitate the exercise of effective legislative oversight to improve the programs and operations of the Federal Government: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress—

(1) recognizes the many accomplishments of the Offices of Inspectors General in preventing and detecting waste, fraud, and abuse in the Federal Government;

(2) commends the Offices of Inspectors General and their employees for the dedication and professionalism displayed in the performance of their duties; and

(3) reaffirms the role of Inspectors General in promoting economy, efficiency and effectiveness in the administration of the programs and operations of the Federal Government.

MEASURE READ FOR THE FIRST TIME—S.J. RES. 59

Mrs. HUTCHISON. Mr. President, I understand that Senate Joint Resolution 59 which was introduced by Senator GRAMM of Texas is at the desk, and I now ask for its first reading.

The PRESIDING OFFICER. The clerk will read the resolution for the first time.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 59) to provide for a Balanced Budget Constitutional Amendment that prohibits the use of Social Security surpluses to achieve compliance.

Mrs. HUTCHISON. I now ask for its second reading, and I object to my own request.

The PRESIDING OFFICER. The objection is heard.

The resolution will be read the second time on the next legislative day.

COMMISSION ON THE ADVANCEMENT OF WOMEN AND MINORITIES IN SCIENCE, ENGINEERING, AND TECHNOLOGY DEVELOPMENT

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3007, which was received from the House.

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

The clerk will report.

A bill (H.R. 3007) to establish the Commission on the Advancement of Women and Minorities in Science, Engineering, and Technology Development.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the bill be considered read the third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed in the appropriate place in the RECORD.

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

The bill (H.R. 3007) was considered read the third time, and passed.

MAKING TECHNICAL CORRECTIONS IN LAWS RELATING TO NATIVE AMERICANS

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4068, which was received from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4068) to make certain technical corrections in laws relating to Native Americans, 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.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the bill be read the third time, and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

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

The bill (H.R. 4068) was considered read the third time, and passed.

ORDERS FOR FRIDAY, OCTOBER 2, 1998

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Friday, October 2. I further ask that when the Senate reconvenes on Friday, immediately following the prayer, the Journal of the proceedings be approved, no resolutions come over under the rule, the call of the calendar be waived, the morning hour be deemed to have expired, the time for the two leaders be reserved, and the Senate then begin consideration of S. 442, the Internet Tax Bill, under the consent agreement of September 30.

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

ORDER FOR CLOTURE VOTE ON MOTION TO PROCEED TO H.R. 10

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the cloture vote on the motion to proceed to H.R. 10 occur at 5:30 p.m. Monday, October 5.

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

PROGRAM

Mrs. HUTCHISON. Mr. President, for the information of all Senators, when the Senate reconvenes on Friday, the pending business will be the Internet Tax Bill. An agreement has been reached on that bill allowing for relevant amendments, with the addition of a Bumpers amendment regarding catalog sales. Rollcall votes are expected during Friday's session on or in relation to amendments offered to the Internet bill, or possibly an executive nomination. In either case, the first rollcall vote on Friday's session will occur by 10:30 a.m.

Members are reminded that a cloture motion was filed today on the motion to proceed to H.R. 10, the Financial Services Bill. That vote will occur at 5:30 p.m. on Monday, October 5. Also during Monday's session, the Senate may consider any available appropriations conference reports, including the Agriculture, HUD, and Treasury/Postal bills. Therefore, further votes could occur following the 5:30 cloture vote.

ORDER FOR ADJOURNMENT

Mrs. HUTCHISON. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order, following the remarks of Senator SESSIONS.

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

FIRST BALANCED BUDGET IN 30 YEARS

Mr. SESSIONS. Mr. President, I would also like to offer remarks that I have prepared as we celebrate today the first balanced budget in 30 years. I had occasion to be elected to the Senate on a number of issues, but none more important than a commitment to work for that goal just 2 years ago.

I remember when I first got here, Secretary of Treasury Rubin was testifying before the Judiciary Committee on the question of whether we needed a balanced budget constitutional amendment that would mandate that we balance the budget. He said we did not. He said they had a plan that would balance the budget by 2002.

I was new. I had been told that Secretary Rubin was quite a skillful witness and that I should be careful. I said, ''Mr. Secretary, that is a nice promise you made. But the truth is you won't be here in 2002 as Secretary of the Treasury, will you?'' Without hesitating, he said, ''Well, I haven't talked to the Vice President yet.'' But I was left with a thought that, well, President Clinton would not be here constitutionally as President past his two full terms, and that he could not make a promise that we could balance the budget long after he left office.

So I just say that to say that less than 2 years ago there was great doubt in our country and among our public policy leaders that we would, in fact, be able to balance the budget.

This Congress has stepped forward and has made some tough decisions. It has worked with the administration. It has put caps on spending that are holding. And we have now produced a balanced budget amendment with maybe a $70 billion surplus.

When I traveled across the state two years ago during my campaign for the Senate, I learned that foremost in the minds of Alabamians regarding the future of our country was the economic legacy we as taxpayers were creating for our children. At the time, that legacy meant budget deficits as far as the eye could see. I believe that part of the reason why I was elected to the Senate was because of my promise to change that legacy by supporting a balanced budget, and to do so by cutting spending and eliminating fraud and abuse.

Today, I am proud to witness as a Member of Congress, the first balanced budget in thirty years. It is an historic event much as Neil Armstrong's first steps taken on the Moon in 1969—the last year there was no budget deficit.

As a result of this achievement, the American taxpayer is enjoying historically low interest rates on mortgages, car loans, and students loans. Those who could only dream of buying a home are becoming homeowners. Automobiles are more affordable than ever. And students with college loans are finding the burden of their debt lessened as they graduate and enter the workforce.

Businesses are benefitting as well. Lower interest rates mean more money to invest in capital, and expanded capital means more jobs. The unemployment rate is at an historic low of 4.5 percent. The effects of this tight labor market combined with such low interest rates has meant returns to workers in the form of higher wages. Indeed, income for the typical American household rose at nearly twice the rate of inflation in 1997.

There are many people that deserve credit for this historic achievement, but none more than the American people. It is the American people that created a mandate for a balanced budget by electing those of us to office who would make it their number one priority to put the country's books in the black. I am proud to be part of that mandate. It is a Republican Congress who responded to this mandate by producing a balanced budget and doing it ahead of schedule. If this responsibility had been left to the President, today we would have a $196 billion deficit, which he called for in his 1996 budget.

But it is not enough to balance the budget just once. Now that we have achieved a balance, we need to maintain it. Interest rates don't respond to what the deficit is today. They respond to what people think the deficit is going to be in the future, and big hurdles remain before a future of balanced budgets can be assured. Today, we begin a new fiscal year with a surplus of $63 billion. Yet, hard choices regarding spending must still be made in order to preserve Social Security and Medicare, as well as cut taxes in order to keep the economy and families strong.

It is a time to celebrate, and I think we should pause and be grateful.

I thank the Chair. I yield the floor.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned.

Whereupon, the Senate, at 6:58 p.m., adjourned until Friday, October 2, 1998, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate October 1, 1998:

NATIONAL CONSUMER COOPERATIVE BANK

HARRY J. BOWIE, OF MISSISSIPPI, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL CONSUMER COOPERATIVE BANK FOR A TERM OF THREE YEARS, VICE TONY SCALLON, TERM EXPIRED.

SMALL BUSINESS ADMINISTRATION

PHYLLIS K. FONG, OF MARYLAND, TO BE INSPECTOR GENERAL, SMALL BUSINESS ADMINISTRATION, VICE JAMES F. HOOBLER.