international vessels operating in commerce are operating under flags of convenience. Flag of convenience registries include such major maritime powers as Panama, Liberia, the Marshall Islands, and Vanuatu. These registries only require their vessel owners to pay registration fees. Shipowners are not required to pay tax on revenues earned and employees do not have to pay income tax. Further, the shipowner has little or no obligation to comply with the law of the nation of registry.

Nevertheless, if our commercial fleet is to continue to be an effective auxiliary in times of war or national emergency, it must first be commercially viable in times of peace. Otherwise, there will be no merchant fleet when the need arises.

I think we all would agree that there is a substantial national interest in promoting our merchant fleet. I think, also, that we would all agree that U.S. national security and economic security interests should not be held hostage by insufficient U.S.-controlled sealift assets. Given the diminution of the flag fleets of our NATO allies it will be more important in the future to sustain a viable U.S.-flag presence. Indeed, several laws of our land recognize that national interest and spell out specifically how the U.S. government is to go about promoting it. Federal laws require that U.S. military cargo, cargo purchased with loan funds and guarantees from the Export-Import Bank, 75 percent of concessionary agricultural cargo, and at least 50 percent of all other international ocean borne cargo generated directly or indirectly by the federal government be carried on U.S.-flag vessels. The alarming news is that according to the Maritime Administration (MARAD) the total volume of cargo moving under these programs is declining and will continue to do so.

According to a report by Nathan Associates, Inc., the 1992 economic impact of cargo preference for the United States was 40,000 direct, indirect and induced jobs; $2.2 billion in direct, indirect and induced household earnings; $354 million in direct, indirect and induced federal personal and business income tax revenues—$1.20 for every dollar of government outlay on cargo preference; and $1.2 billion in foreign exchange.

It is, therefore, imperative that U.S.-flag vessels carry every ton of cargo which these programs and the law intend, and in fact require, them to carry. This brings me to the reason for the resolution I am submitting today. These are two substantial problems which threaten the viability of these programs and, therefore, the viability of our merchant fleet.

Several agencies administering cargo reservation programs continue to evade the spirit and letter of the reservation laws by finding the law inapplicable to a particular program or employing other loopholes.

This problem of evasion and uneven confidence led the Congress to amend the Merchant Marine Act of 1970 to centralize monitoring and compliance authority for all cargo reservation programs in the MARAD. Nevertheless, the problem remains. Critics of the MARAD maintain the agency is too timid, and does not discharge its obligation aggressively. The MARAD, on the other hand, says it has limited enforcement powers over those government agencies which are not in compliance.

Recently, the United States District Court for the District of Columbia entered an unopposed order upon consideration of the joint motion of the parties in Farrell Lines Incorporated versus United States Department of Agriculture (USDA) and Sea-Land Service, Inc. The order affirms the appropriate roles of the MARAD in administering the cargo preference laws with respect to Food for Progress and Section 416(b) programs, and the USDA in complying with those laws and the MARAD's policies and regulations implementing them.

Mr. President, the resolution I am submitting today expresses the sense of the Senate that all of these federal agencies must fully comply with both the intent and purpose of existing cargo reservation laws, and that the MARAD should provide directions and decisions to these agencies to ensure maximum compliance with these laws.●

ADDITIONAL STATEMENTS

STATES' RIGHTS PROTECTION ACT OF 1999

● Mr. ABRAHAM. Mr. President, I rise as an original cosponsor of the ''States' Rights Protection Act of 1999.'' This legislation will prevent a grave injustice that could do significant damage to our states, and to our federal system.

Several years ago, Mr. President, a number of states commenced lawsuits against American tobacco companies. The states sought damages on the basis of a number of claims, including violation of consumer fraud and other State consumer protection laws, antitrust violations and unjust enrichment. Some suits included claims for tobacco-related health care costs incurred by the states, and some did not.

Eventually all 50 states became parties in one way or another to anti-tobacco lawsuits. Last November a major settlement was reached, involving 46 states. That settlement included no funds of any kind to be allocated for State medicaid costs.

The federal government in Washington did not initiate these suits. The federal government in Washington provided no financial assistance to the states in furtherance of their suits. Yet now, after the states and the tobacco companies have agreed on a financial settlement, the Clinton Administration is seeking to divert a significant portion of that settlement to its own use.

The federal Health Care Financing Administration (HCFA) has stated that it wants to ''recoup'' some of the states' settlement funds. They claim to have a right to these funds under a Medicaid law which the federal government has traditionally used to recover its share of ''overpayments.'' These overpayments typically arise when providers overbill Medicaid.

Mr. President, HCFA's claims cannot stand. The law to which they refer was intended to prevent fraud and other forms of overbilling. It was not intended to allow the federal government to seize huge amounts of money to which it has no proper title. States have obtained a legal right to this money. They gained this right through a properly constructed and affirmed legal settlement of lawsuits filed against product manufacturers, on behalf of all their residents, asserting a consumer protection and various other causes of action.

There is no federal medical claim involved. Thus HCFA has no right to these monies, and neither does any agency of the federal government.

The Administration's pursuit of monies from this settlement amounts to nothing more or less than a raw assertion of federal power. We must oppose it for the good of our states and for the good of our form of limited, federal government.

Ours is a limited government, Mr. President. It is limited in that the Constitution delegates only certain powers to the federal branches and their officials. Our Constitution includes a number of what James Madison called ''auxiliary precautions'' to keep federal officials within their proper bounds, thereby protecting our liberties. But Madison recognized that the primary check on those who would overstep their proper bounds must be the determination of elected officials to see that the Constitution's terms are respected.

A federal government that simply steps in to take money from the states is not respecting our Constitution. That federal government is taking us far down a dangerous path toward unrestrained central power. We must see that this does not happen.

In addition, Mr. President, as a practical matter it would be a mistake to allow the federal government to commandeer these funds. To begin with, were the federal government in Washington to take these funds from the states under the weak legal pretense put forward by the HCFA, the result would be long, wasteful litigation. That litigation will benefit no one, instead it will poison intergovernmental relations for years to come.

Indeed, if the HCFA begins to seize state settlement funds, it will do so by cutting federal Medicaid payments to the states. This will make it much more difficult for states to provide health care for children from low and moderate income families, the disabled and millions of others who depend on Medicaid. The real victims of this

money grab will be the weakest members of our society, those least able to take care of themselves.

Of course, the Administration claims that it will use the states' money to benefit everyone. It seeks to take $18.9 billion of the states' money over the next five years. No doubt the Administration will find attractive programs on which to spend this money. But the federal government already consumes more than 20 percent of our national income. We do not need yet another federal tax and spend policy.

As a nation what we need is more innovative policy making at the state and local level. And that is what these monies will produce, if only we will leave them in their proper place.

A number of states already have acted in reliance on the tobacco settlement, putting forward proposals and new programs that will greatly benefit their people.

For example, in my state of Michigan, Governor John Engler in his state of the state address a few short weeks ago proposed to endow a Michigan Merit Award Trust Fund with Michigan's share of the tobacco settlement.

Under this program, every Michigan high school graduate who masters reading, writing, math and science will receive a Michigan Merit Award—a $2,500 scholarship that can be used for further study at a Michigan school of that student's choice.

In addition, all Michigan students who pass the 7th and 8th grade tests in reading, writing, math and science administered by the state will be awarded $500. That means, Mr. President, that any Michigan student successfully completing secondary schooling will receive $3,000 for further education.

The young people of Michigan will benefit tremendously from this program, Mr. President. Their motivation to do well in school will be significantly increased, as will their ability to afford and succeed in higher education.

We need programs like Michigan's to help kids do well in school and get ahead in life. The federal government should be learning from these kinds of programs and working to show other states how well they can work. It should not be taking money out of the pockets of Michigan's young people to put into the pockets of Washington bureaucrats.

We must protect the rights and the people of our states by seeing to it that tobacco settlement money stays where it belongs, and where it will do the most good—in the states.

I urge my colleagues to support this bipartisan legislation.●

THE PUBLIC SCHOOL MODERNIZATION ACT

● Mr. LAUTENBERG. Mr. President, I rise today to update my colleagues on the status of the Public School Modernization Act, which I introduced on January 19 as S. 223. The bill already has 15 cosponsors and I expect the list to continue to grow.

Mr. President, I was very pleased to see that the President's Budget for Fiscal Year 2000 will call for $25 billion in nationwide bond authority through the Public School Modernization Act. This is a higher total than first contemplated in my bill, S. 223, but I want to make it clear to my colleagues that my cosponsors and I will gladly update the numbers when my bill reaches the Senate floor as an amendment or a stand alone measure.

The President's FY 2000 Budget illustrates why the Public School Modernization Act is a great return on our Federal investment. The five year cost of this program will be $3.7 billion, but it will create nearly $25 billion in new bond authority for school districts all over the country. Of this authority, $22.4 billion will be through the School Modernization Bond Program and $2.4 billion will come through the Qualified Zone Academy Bond Program. In addition, $400 million of bond authority will go to Native American tribes or tribal organizations for BIA funded schools.

Mr. President, I urge the Senate to support this effort to invest in our children's future. I ask all of my collegues to join me in cosponsoring S. 223, the Public School Modernization Act of 1999.●

HUTCHISON/GRAHAM STATE TOBACCO SETTLEMENT

● Mr. MACK. Mr. President, I rise today in support of S. 346, a bill to amend title XIX of the Social Security Act to prohibit the recoupment of funds recovered by states from one or more tobacco manufacturers. Starting in 1989, several states filed lawsuits against tobacco companies to recover the costs of smoking related illnesses borne by states. The lawsuits led to final settlements between each state and the tobacco industry.

Now, after providing no assistance to states in their legal battles, the Administration, through the Health Care Financing Administration, is attempting to claim a portion of this money. It is my opinion that this money belongs to the individual states, and should be spent as each state sees fit. This legislation accomplishes exactly that goal.

The Health Care Financing Administration's pursuit of these monies also could jeopardize state programs all over the country. In Florida, Governor Jeb Bush announced an endowment, funded by tobacco monies, to insure the financial health of vital programs for children and seniors. The endowment fund is named in honor of the late Governor Lawton Chiles, who played a key role in obtaining the tobacco settlement for the people of Florida. Other programs, funded by the settlement, have already been put in place in Florida, and would be jeopardized if the funds were suddenly not available.

Additionally, the Health Care Financing Administration's plan to obtain these funds by witholding federal Medicaid payments to the states could very well affect the states' ability to provide much needed care for the millions of Americans who depend on Medicaid.

The Administration's attempt to dictate how the money should be spent demonstrates a disregard for state budgeting process. I hope that my colleagues will support this bi-partisan bill that protects state tobacco settlements from federal recoupment.●

REMARKS ON HUMAN RIGHTS SITUATION IN PERU

● Mr. WELLSTONE. Mr. President, I rise today to express my deep concern over the apparent disregard for international standards of fairness and openness in the legal process in Peru. President Fujimori is visiting Washington today and is being congratulated by the President on resolving Peru's border dispute with Ecuador. During his visit, I think it is important to point out that under his rule democratic principles have been threatened in Peru and the basic civil rights of the Peruvian people have not been properly respected.

In his inaugural speech in July of 1990, President Fujimori stated that ''the unrestricted respect and promotion of human rights'' would be a priority of his government. His promises, though, quickly proved suspect as he solidified his control over what has been described as ''an authoritarian civilian military government''.

In April of 1992 he annulled Peru's constitution, dissolved the Legislature and purged most of the judiciary, most forcefully and notably those courts responsible for ensuring the civil rights of its citizens. Since this time independent monitoring groups like Amnesty International have documented numerous extrajudicial executions of peasant men, women and children, perpetrated by Peru's military and police forces who later attempted to conceal their actions. These executions have been determined by respected independent human rights organizations to have been orchestrated from the highest levels of the current Peruvian government, including two of President Fujimori's top advisors.

Human rights workers and journalists in Peru have been subjected to intimidation, death threats, abductions, and torturous interrogation and imprisonment by the Peruvian government in response to their attempts to hold responsible those who committed these atrocities.

President Fujimori's systematic dismantling of Peru's legislative and judicial systems has resulted in impunity for those who commit these acts of aggression. To investigate and determine accountability in these cases, the military has often served both as prosecutor and judge, keeping their identities