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Senate

The Senate met at 9:30 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Today's prayer will be offered by our guest chaplain, Dr. Gordon Reed, Sardinia Presbyterian Church, Sardinia, SC.

PRAYER

Dr. Gordon Reed offered the following prayer:

May we pray?

Almighty God, God of fathers before us, it is by Your grace and gracious hand that we have been given this land of freedom and plenty. And we humbly pray that we may prove ourselves to be a people who acknowledge You and Your goodness, and who are eager to do justly, love mercy, and to walk humbly with our God. Bless this dear land we love with honorable and upright leaders in government, industry, education, and public life.

Save us from all of our enemies and foes who would conquer and destroy us. Save us from internal strife, discord, and confusion, from pride and arrogance, and from moral disintegration. Teach us to love and respect each other, who come from such diverse backgrounds, that we may truly be one Nation under God.

We especially pray for these to whom we have entrusted the authority and power of government. Grant them wisdom, courage, and the humility to confess that all authority comes from above. May their deliberations and decisions be guided by Your almighty hand and tempered with charity toward one another. May they ever be mindful that ''sin is a reproach to any people, but righteousness exalts a nation.''

In our times of prosperity, fill us with gratitude. In our times of want and trouble, fill us with trust. And when we must endure Your chastening hand because of our waywardness, give to us a spirit of true repentance and humility. Grant us peace within and enable us to be peacemakers among the nations of this world. We ask this in the name of and by the authority of the Prince of Peace. Amen

EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT FOR FISCAL YEAR 1999

The PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 544, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 544) making emergency supplemental appropriations and rescissions for recovery from natural disasters, and foreign assistance, for the fiscal year ending September 30, 1999, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Specter amendment No. 77, to permit the Secretary of Health and Human Services to waive recoupment of Federal government medicaid claims to tobacco-related State settlements if a State uses a portion of those funds for programs to reduce the use of tobacco products, to improve the public health, and to assist in the economic diversification of tobacco farming communities.

The PRESIDING OFFICER (Mr. SESSIONS). Under the previous order, there will now be 90 minutes remaining on the Specter amendment, No. 77, to be equally divided.

The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, before proceeding with this amendment, I have been asked to make this statement on behalf of the majority leader.

This morning, the Senate will immediately resume consideration of the supplemental appropriations bill. Under the order, there will be 90 additional minutes for debate on the pending Specter amendment, No. 77.

All Senators are, therefore, notified that the first vote this morning will be at approximately 11 a.m., if all debate is used. Following that vote, additional amendments are expected, and Senators should anticipate rollcall votes throughout today's session. Any Senators intending to offer amendments to this legislation are encouraged to notify the managers so that they can be scheduled for consideration.

I thank my colleagues for their attention.

AMENDMENT NO. 77

Mr. SPECTER. Mr. President, I found on my desk this morning a ''Dear Colleague'' letter entitled, ''Oppose the Specter-Harkin Amendment That Seizes $123 Billion in State Funds.''

Instead of outlining the provisions of the Specter-Harkin amendment, I would just refer my colleagues to this ''Dear Colleague'' letter signed by the opponents, and tell them that the amendment is exactly contrary to what is in this ''Dear Colleague'' letter, so that by reading the letter, they can just conclude the opposite, and they will have a statement of what the pending amendment is.

Before dealing in detail with the ''Dear Colleague'' letter, or this misstatement, permit me to outline in very general terms that the pending amendment has been offered by the chairmen and ranking members of the two Senate committees which are charged with authorization of appropriations for the Department of Health and Human Services. Senator JEFFORDS, the chairman of the authorizing committee, and Senator KENNEDY, the ranking member, are cosponsors of the amendment which has been offered by Senator HARKIN, the ranking member on the appropriations subcommittee which has the responsibility for appropriations for the Department of Health and Human Services, and the subcommittee which I have the honor to Chair.

We must survey—the four of us in our positions as chairmen and ranking members—the health needs of America in a very, very constrained budget. We have seen the budget resolution, which

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has come out of Budget Committee, and the limitations on discretionary funding. Our subcommittee has the responsibility for funding not only the Department of Health and Human Services, but also the Department of Education and the Department of Labor, where so many vital programs for worker safety are involved.

So our responsibility is a very heavy one. As we have observed, the settlement with the States is in excess of some $200 billion over a 25-year period. The thought immediately came to mind that these funds, which have been obtained from settlements on tobacco issues, could be used and should be used in very large part, frankly, if not entirely, for health purposes.

In the Appropriations Committee meeting, an amendment was offered by the distinguished Senator from Texas, Senator HUTCHISON, to have the Federal Government relinquish all claims to these funds, and have these funds paid entirely to the State governments.

I can understand the popularity of this kind of an amendment.

It is backed by all 50 Governors; it would be shocking if it weren't. It is backed by all 50 State legislatures; it would be shocking if it weren't. It is backed by all State attorneys general; again, it would be shocking if it were not.

I support the proposition that there ought to be minimal strings, minimal requirements mandated by the Federal Government, especially in the context where we mandate requirements and do not fund them.

Last week, we passed the Ed-Flex bill to give flexibility to the States. But I submit to you that it is fundamentally different to say that where there are Federal appropriations for a specific purpose, there ought to be latitude for State governments and local governments to figure out how to spend those funds, contrasted with saying that all of $200 billion-plus ought to go to the States to spend as they choose, when some States have already made an announcement that they intend to use these funds, at least in part, for highway construction or for debt retirement.

When a settlement is reached on matters of this sort by State governments and officials representing the States, those funds realistically are impressed with the trust, where the claims are brought because of damages due to public health, due to tobacco. There is a specific purpose that the lawsuits were started, and that was to redress public claims on these important areas. Even without a Federal direction limiting, in some way, or articulating a portion of these funds to go for medical purposes, it is my legal judgment that those funds are impressed with the trust. I would not be surprised to see that, if the State governments undertake spending on items far afield, they may face a class action or taxpayer suits or people who have been injured by tobacco seeking to impress that trust.

We had a hearing in the appropriations subcommittee this Monday. Our subcommittee took up the issue on an emergency basis to try to see if we could find some area for resolution. We heard testimony from the Governor of Kentucky and the attorneys general of Pennsylvania, Texas, and Iowa. Those four witnesses all emphasized the desirability of having some resolution of this issue so that they could make plans for their budgets.

I agree with that proposition. A very forceful letter was filed by the Secretary of Health and Human Services, Donna Shalala, strenuously objecting to having the money paid over to the States, because the Federal law gives her the authority to make an allocation as to how much of those funds should be deducted from the Federal obligation to the States on Medicaid.

The States have the obligation under Federal law to sue to collect on claims that Medicaid has. And the States have the authority—and exercise the authority—to release the tobacco companies from liability to the Federal Government. That is provided for under existing Federal law. So for those who say that the Federal Government can bring lawsuits, it simply is not so, because those claims have all been released.

It may be, Mr. President, that we are in an area where largely, if not entirely, the States will recognize the duty to use these settlement proceeds for tobacco-related purposes. The distinguished attorney general of Pennsylvania, Mike Fisher, who testified on Monday, outlined a program for the use by Pennsylvania of $11.3 billion. I believe that, in conjunction with our distinguished Governor Tom Ridge, there will be a program to use these funds for tobacco-related purposes. But it is not sufficient to say that States may recognize this obligation, because States may not recognize the obligation, as we have already seen from preliminary indications of spending these funds on unrelated purposes—debt reduction and highway construction.

In a ''Dear Colleague'' letter that has been circulated today, which I referred to earlier, the statement is made:

> The Specter-Harkin amendment will require every Governor—each year—for the next 25 years to submit a plan to Washington asking for permission on how to spend fifty percent of the State's own money.

That is flatly wrong.

It is true that there is a 20-percent requirement for smoking cessation education to try to dissuade youngsters from smoking and a 30-percent requirement on medical plans. But there is no need for Governors to submit a plan to Washington asking for permission on how to spend that money, that 50 percent. That is a matter where the Governors only have to tell the Department of Health and Human Services how the money was spent after in fact it is spent. They don't have to submit a plan, and they don't have to ask for prior authorization.

The ''Dear Colleague'' letter further says:

> This is a classic ''Washington Knows Best'' policy, an unprecedented Federal power grab.

In a sense, it is complimentary to call it an ''unprecedented Federal power grab.'' Considering all the Federal power grabs that have been recorded historically, this is really a gentle nudge to the States, saying that here we have funds realized from a tobacco settlement with a statement of policy that 50 percent ought to be used for a specific purpose.

On the 50 percent, it is actually on the low side. The facts show that some 50 percent of the funds involved here come from Medicaid, so that the percentage could have been substantially higher.

So, Mr. President, it is my hope that we will have a statement of congressional policy on this vote today which will, in a very gentle way, without regulations, without the requirement of submitting the plan to Washington, simply say to the Governors that at least 50 percent ought to be used for tobacco-related purposes, such as education to discourage children from smoking, where we see a very high rate of juvenile smoking and overwhelming statistics of deaths resulting from juvenile smoking—where we have a reasonable amount allocated for that educational purpose, and a reasonable amount—some 30 percent—allocated not only for public health measures but also for aiding smoking cessation.

Mr. President, I ask unanimous consent that a letter supporting my amendment from the American Lung Association dated March 17, 1999, and a letter of support from the Campaign for Tobacco-Free Kids dated March 18, 1999, be printed in the RECORD.

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

AMERICAN LUNG ASSOCIATION,
March 17, 1999.

Hon. ARLEN SPECTER,
U.S. Senate, Washington, DC.

DEAR SENATOR SPECTER: The American Lung Association is pleased to support the legislation you are introducing with Senator Harkin that requires states spend the federal share of tobacco settlement funds on tobacco and health purposes. The American Lung Association is a strong supporter of the Medicaid program. However, if the decision is made to forego the federal share of the Medicaid recovery, legislation like your proposal must be enacted to ensure that the funds are spent on tobacco control, prevention and cessation activities and health programs. It would be extremely shortsighted not to use these resources to reduce the cause of the disease that led to the need for the recovery in the first place.

We favor your approach and the similar proposal by Senators Kennedy and Lautenberg (S. 584) because they require tobacco settlement dollars to be invested in tobacco control and improving the public health.

Effective tobacco education, prevention and cessation programs will help reduce the horrible toll tobacco takes on American families. Reducing tobacco use also will help reduce the enormous cost to taxpayers that tobacco-related disease imposes. Investing

funds in the public health programs will improve the health of millions of Americans. We also support efforts to help tobacco growing communities diversify their economies.

To ensure their efficacy, the American Lung Association supports rigorous federal review, evaluation and oversight of tobacco control programs. Congress should contain Medicaid costs and promote public health by affirming the authority of the Food and Drug Administration to regulate tobacco products, implementing a vigorous national advertising and education program to counter the tobacco industry's marketing efforts and by enacting other policies and programs to reduce tobacco use.

The American Lung Association looks forward to working with you to enact strong legislation to combat the addiction, disease and death caused by tobacco.

Sincerely,

FRAN DU MELLE,
Deputy Managing Director.

CAMPAIGN FOR TOBACCO-FREE KIDS—NATIONAL CENTER FOR TOBACCO-FREE KIDS,
Washington, DC, March 18, 1999.

Hon. ARLEN SPECTER,
U.S. Senate, Washington, DC.

DEAR SENATOR SPECTER: The Campaign for Tobacco-Free Kids fully supports your amendment to the supplemental appropriations bill to require states to spend 20 percent of the money they receive from their settlements with the tobacco companies on comprehensive programs to prevent tobacco use. The Federal government has a legitimate claim to a share of the settlement money and should condition its waiver of the federal share on states funding effective tobacco prevention programs.

Investing in tobacco prevention will save lives and money. the evidence continues to build that statewide tobacco prevention strategies are effective in reducing tobacco use. Several states already have tobacco prevention campaigns and have reduced overall smoking levels within their borders at a faster rate than elsewhere in the country. And while youth smoking rates have risen dramatically nationwide, they have decreased or increased much more slowly in these states. Just this week, results were released showing decreases in teen smoking in Florida less than a year after that state's comprehensive tobacco program was launched.

In addition to saving lives, decreasing tobacco use will save money. Public and private direct expenditures to treat health problems caused by smoking annually total more than $70 billion. Aggressive tobacco prevention initiatives in every state would reduce these costs for federal and state governments as well as for businesses and individuals. Requiring the states to devote resources to solving the tobacco problem will save federal dollars in the future.

We heartily endorse your efforts to ensure that funds from the tobacco settlement are used to address the reason for the lawsuits in the first place—reducing the number one preventable cause of death in this country. Thank you for standing up for America's kids.

Sincerely,

MATTHEW L. MYERS,
Executive Vice President and General Counsel.

Mr. SPECTER. Mr. President, how much time has been consumed?

The PRESIDING OFFICER. The Senator has spoken for 12 minutes.

Mr. SPECTER. I thank the Senator.

Does the Senator from Hawaii, who was on the floor first, seek recognition on this issue?

Mr. AKAKA. Mr. President, I would like to speak on the emergency supplemental and rescissions bill.

Mr. SPECTER. Mr. President, in that case, I yield 5 minutes to the Senator from Rhode Island on this amendment.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. REED. Mr. President, I thank the Senator from Pennsylvania for yielding the time, and I also commend him and Senator HARKIN for their amendment to this supplemental bill. They have done something that I think is incredibly important, and that is to provide some emphasis on smoking cessation and also public health in the use of the funds from the tobacco settlements that the States are beginning to receive.

The amendment by Senator SPECTER and Senator HARKIN strikes a very reasonable balance between the desires of the Governors to use these funds and also the willingness of the Federal Government to forgo its share of the tobacco settlement, and also the need to ensure that we do have in place significant tobacco prevention activities, as well as being able to meet other public health priorities. This amendment reserves 25 percent of the overall settlement to these priorities—smoking cessation and public health—and allows 75 percent of the funds to be spent at the discretion of the States. I think this is an appropriate way to deal with the proceeds of the tobacco settlement.

When we consider the fact that the basis of these claims rested upon Medicaid spending by the States, and we also consider the significant contribution the Federal Government makes to the Medicaid Program, it is not unrealistic—in fact, it is entirely appropriate—that we would be able to, and should be able to, lay out some broad guidelines as to the use of a small portion of the settlement funds. I can't think of any more appropriate topic of concern at every level of government than the reduction of smoking in this society.

Let's step back a minute. This process of suing the tobacco companies, this process that led to the settlements, is not about getting some money for new highways or new types of programs at the State level. It started with the realization that smoking is the most dangerous public health problem in this country and we have to take concerted steps to do that. The suits resulted in a settlement, financially, but it won't result in the effective eradication, elimination, or reduction of smoking unless we apply those proceeds to smoking cessation programs and other public health initiatives that are critical to the health and welfare of this country.

We know that each day more than 3,000 young people become regular smokers. We also know that 90 percent of those who are long-term smokers began before they were 18 years old. So there is a critical need for more and more efforts particularly targeted at youngsters to ensure that they do not start the habit of smoking, and by requiring a certain portion, a rather small portion, of the proceeds of these settlements to that end is, again, not only sensible but it is compelled by the crisis we face in the public health area of smoking in the United States.

One of the other things that we must also recognize is that this settlement represents a concession, an acknowledgement by the tobacco industry that their marketing practices were sinister, that they targeted young people, and that, in fact, their product causes disease and death. And in that context we have to respond with some of these funds to recognize the public health impact of smoking overall. On both the law and the logic, it seems to me entirely appropriate that this amendment should not only be debated but passed.

I think we have to recognize, too, that what the amendment proposes is not some type of grandiose Federal program. It simply directs the Governors and the legislatures in their own way, form, and fashion to use these funds for very broad programmatic initiatives in public health which encompass such things as smoking cessation.

So this is not an overwhelming usurpation of State and local prerogatives by the Federal Government; it is a common way to deal with problems that got us here in the first place, the fact that smoking, particularly youthful smoking, is one of the major public health crises in this country.

I believe Senator SPECTER and Senator HARKIN have balanced and complemented the way in which States are using these funds.

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

Mr. REED. Their efforts are complementing what States are doing. Our Lieutenant Governor, Bernard Jackvony, is proposing this initiative.

I hope we can all stand behind this amendment, and I thank the Senator for yielding me time.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I have two speakers on the amendment, but I know Senator AKAKA wants to speak on the bill. I would like to ask him if he could take 5 minutes—and then let us get back to the amendment—equally divided from Senator SPECTER's side and my side.

Mr. AKAKA. Mr. President, I thank my friend from Texas for yielding me this time. I want her to know that I will be speaking on the emergency supplemental and rescissions bill.

Mrs. HUTCHISON. I understand that the Senator was not aware we had set aside this time by unanimous consent for the amendment. So I am happy to give him 5 minutes equally divided between Senator SPECTER's side and my side, if he will do that, and then allow us to go back to the amendment under

the current unanimous consent agreement. Is that acceptable?

Mr. AKAKA. I certainly would accept that, and I thank my friend from Texas.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. Mr. President, I rise to express my concern on the FY 1999 emergency supplemental and rescissions bill. I support disaster relief for Central America and the Caribbean, emergency relief for America's farmers in crisis, and aid to Jordan to implement the Wye River agreement. It is important that these priorities be funded.

My concern is that one of the budget offsets to pay for this bill pits these important foreign and domestic needs against the needs of the country's poorest families—something that Hawaii's poorest families can ill afford. This supplemental bill seeks to defer $350 million in funding from ''unobligated balances'' under the Temporary Assistance for Needy Families (TANF) Program until fiscal year 2001. The language in the bill requires deferral of portions of states' unobligated TANF funds.

The deferral is based on the states' share of total unobligated funds. Preliminary estimates show this means Hawaii would not be able to spend about $800,000 of its TANF funds until fiscal year 2001.

It is my understanding that my friend from Alaska, chairman of the Appropriations Committee, Senator STEVENS, is working to find a different offset so that the $350 million in TANF funds will not have to be deferred. I strongly encourage him in these efforts and urge that this be done.

In the meantime, we all know that TANF replaced the Aid to Families with Dependent Children welfare program in 1996. I am a critic of the TANF Program for failing to provide an adequate safety net for low-income families. However, I am adamant that full funding must continue to go to the states to assist welfare families and their children. No part of it should be deferred to offset supplemental spending.

The term ''unobligated,'' may seem self-explanatory. Anyone may think that a $350 million deferral of unobligated funds under the bill would apply to funds that have simply not been spent under this program. Proponents would argue that welfare rolls have fallen so far that this money is not needed by states, which is why it remains unobligated. However, Mr. President, we know that funding decisions by state and local governments take time. Transfers of expenditures must go through a process. States often commit funding to counties and local governments that is not transferred immediately, so the amount is not taken off the states' books.

The fact is many states rely heavily on these unobligated funds and have already committed them for a wide variety of uses, such as distribution to counties and local agencies, ''rainy day'' funds for contingencies such as economic downturns that swell the rolls and leave states without enough money until the next federal payment, transfers into child care and social services activities, or other basic expenses to help low-income families become self-sufficient.

My state of Hawaii continues to plan uses for all available funds to provide child care services to our TANF families so that they can be given a chance to continue at their jobs and make it work. Hawaii is doing this the right way, instead of simply looking at the numbers and acting to drop welfare recipients off their rolls. Hawaii is truly ''teaching them to fish,'' so that they truly achieve self sufficiency.

Deferring release of TANF funds for a number of years and using the $350 million for emergency spending violates the agreement made when TANF was passed. I have a letter here from Governor of Hawaii, Benjamin Cayetano, dated March 12th, that describes the agreement between Governors, Congress, and the administration that the entitlement nature of the old AFDC Program would be replaced with a set amount of funding to states under TANF. I ask unanimous consent that the letter be printed in the RECORD.

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

MARCH 12, 1999.

Hon. DANIEL AKAKA,
U.S. Senate, Hart Office Building,
Washington, DC.

DEAR SENATOR AKAKA: I am writing you today to express concern about information I have received which predicts Congress will attempt to cut the funding for the Temporary Assistance for Needy Families (TANF) Program this year. My concern is that there was an agreement between the Governors, Congress, and the Administration that the entitlement nature of the Aid to Families with Dependent Children (AFDC) Program would disappear in favor of a set amount of funding in block grant form under TANF.

The funding under TANF is not overly generous. If fact, in Hawaii, we have not experienced a decrease in the welfare population and every dollar is needed.

I have been told that Congress may be viewing unspent TANF allocations as a surplus that could be used to fund other initiatives. This is being discussed even though child poverty has increased since the passage of Welfare Reform.

While I cannot speak for other States, I can assure you we are trying very hard to assist welfare recipients to become employed and self-sufficient. It appears many States may have tightened their eligibility criteria, but have not been successful in getting welfare recipients employed. If this is the case, the States will be needing their TANF allocation to address the continuing hardships of these families.

I hope you will agree that the TANF funding needs to be safeguarded to provide States with the necessary resources to assist welfare families. Thank you for your attention to this matter. Your strong support is greatly appreciated.

With warmest personal regards,
Aloha,

BENJAMIN J. CAYETANO.

Mr. AKAKA. To use TANF funding as an offset abrogates this agreement. I hope my colleagues, the appropriators, are working to keep this agreement intact. Hawaii and other states need this money to assist poor families.

And of all states, Hawaii needs assistance the most.

Mr. President, our Nation is enjoying the longest peacetime expansion in American history—yet Hawaii is not benefiting from this expansion. While the country is enjoying the lowest unemployment in nearly 30 years and tremendous job creation, Hawaii is losing jobs and its people are having a difficult time finding work at a living wage. Our unemployment rate is at 5.7 percent as of November 1998—well above the country's average of 4.3 percent. Bankruptcy filings increased more than 30 percent form 1997 to 1998. Retail sales fell 7 percent from $16.3 billion in 1997 to $15.2 billion in 1998. These are some recent economic indicators. Hawaii has been suffering from an economic downturn for most of this decade. As if this were not enough, my state has had to endure the worst of all states from the economic crisis in Asia. The Aloha State welcomed 11 percent fewer tourists from Japan and other parts of Asia in 1998. If anything should be slated for emergency funding, Hawaii should.

With all of this need, you can see why $800,000 in TANF funding means a lot to my state. The number of families in Hawaii receiving assistance under this program has increased since the new law was passed. According to the Hawaii Department of Human Services, as of January, 1999, 16,575 single-parent families and 7,119 two-parent families were on the rolls, for a total of 23,694 families receiving assistance. This represents an increase of more than 2,000 families since 1995 when the number of families receiving assistance was 21,480. Hawaii's numbers have increased because of the tough economic conditions we are now enduring.

Hawaii needs every bit of our TANF funding to make sure that our poor families continue to be self-sufficient. This is stated in the letter I submitted earlier from Governor Cayetano. We have not put our unobligated balances aside for a rainy day fund because we do not have enough of it—we need to use every dollar we have for caseloads now.

Once again, I urge my colleagues on the Appropriations Committee and the gentleman from Alaska, Chairman STEVENS, to continue working to find another $350 million offset for this emergency supplemental bill, rather than defer much-needed TANF funds.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. AKAKA. I thank the Chair. I thank the Senator from Texas for yielding me time.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, will the Senator from Texas yield me 5 minutes at this point?

Mrs. HUTCHISON. Mr. President, I yield 5 minutes to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized for 5 minutes.

Mr. GORTON. Mr. President, one of the ways in which the Congress of the United States has been the bane of every Governor and State legislator in the United States of America is its constant willingness to impose unfunded mandates on States and on local communities. We constantly pass laws that tell States and local communities what they are to do, but we rarely pass appropriations sufficient to cover the costs of carrying out those duties.

Just last week we debated the overwhelming unfunded mandate that is included in our rules relating to the education of special needs students, and, in fact, we moved, at least slightly, in the direction of funding some portion of those unfunded mandates. Here, on the other hand, we have the exact mirror image of an unfunded mandate originally imposed by the Congress of the United States. Here we are asked, in this amendment, to decide that billions of dollars recovered by almost every State in the Union in tobacco litigation against tobacco companies will be appropriated, effectively, by the Federal Government, unless the States agree on the way in which we think that money ought to be spent.

Mr. President, 50 percent of all recoveries that the States have made, pursuant to this amendment, must be spent in accordance with this amendment, and detailed regulations are promulgated by the Federal Government for every State in the country. Every Governor will have to make a new application every year for 25 years and meet these requirements or will, in effect, lose an amount of money equal to 50 percent to 100 percent of the money that State has already recovered in an action in which the United States of America was not a party at all.

That is fundamentally unfair. It makes an assumption, an unwarranted assumption, that these were Medicaid claims that were presented by the States of the United States. My attorney general, the attorney general of the State of Washington, Christine Gregoire, one of the three or four leaders of this effort, brought and prosecuted a case through much of the trial period, before it was ultimately settled, without the slightest mention of Medicaid. There were all kinds of fraud and contract and tort claims connected with this litigation, quite independent of Medicaid claims on the part of the various States of the United States of America. Last year, this body spent weeks debating whether or not we should control the settlements that the States were making. We ultimately abandoned that effort and left it entirely to the States.

As a consequence, we have absolutely no right, at this point, to tell the States how they are to spend their money. Many are already engaged in extensive and sometimes successful antismoking efforts. Many have priorities that are different than the priorities here in the U.S. Senate. But if Members of the U.S. Senate want to control the spending in their own States, money that their own States have recovered, they should run for the State legislature, not for the Senate of the United States.

The position taken by the Senator from Texas and her companion, the Senator from Florida, a position that was accepted by the Senate Appropriations Committee, is the right and just position. This money was recovered by the States, this money belongs to the States, and the spending of this money should be determined by each of the 50 States of the United States of America.

It is no more difficult than that. It is as simple as that. We have already imposed too many unfunded mandates on the States by our substantive legislation here. Let's not do essentially the same thing by telling States that money they have already recovered has to be spent on our priorities, rather than their own. Support the position of the Senator from Texas and Florida. Reject this amendment.

The PRESIDING OFFICER (Mr. BENNETT). The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I yield 10 minutes to my distinguished colleague from Iowa, Senator HARKIN.

Mr. HARKIN. Mr. President, again I thank my friend and my colleague and my leader, Senator SPECTER, for bringing forth this amendment, which is common sense and which goes to the heart of what the smoking problem in America is all about. It is about health.

I might just say, at the outset, really the provision in the supplemental bill we are talking about should not even be on the supplemental. It is not an appropriations measure. It more appropriately ought to be in the Finance Committee, but it was slipped in as a rider on the appropriations bill, the amendment offered by the Senator from Texas, Senator HUTCHISON.

What Senator HUTCHISON's amendment says is all the money already recouped by the States in their settlement with the tobacco companies should be kept by the States and they can do with it whatever they want to do with it. That is all right as far at the State's money goes.

I have no problem with that. But that also includes the Federal share of Medicaid. As I have continually pointed out, under the Social Security Act the States are required to go after recoupments in Medicaid from third parties. In fact, they are the only ones who can sue for third party recoupment. The Federal Government is preempted from doing that. Only the States can do that. So they act as an agent for the Federal Government and recoup them. Keep in mind, the law states, regarding any money recouped by the States for Medicaid, the Federal portion has to be returned to the Federal Government.

We have to keep in mind what we are talking about here. Are we talking about the fact that the tobacco companies didn't build a number of highways in Texas? Or that they did not build prisons in Alabama? Or they did not build a sports arena in Michigan—or on and on and on? No. That is not why these lawsuits were brought. They were brought because tobacco is the biggest killer we have in America today. You add up alcohol, accident, suicide, homicide, AIDS, illegal drugs, fires—add them all up and tobacco kills more a year than all of these combined.

What has this tobacco debate been about, that we have been here for years and years on end debating? That is what it is about. Tobacco is hooking young people, getting them addicted. And the tobacco companies have lied and lied and lied, year after year, and covered up, and fought with powerful money and powerful interests here in Washington to keep us from doing what we need to do to protect the public health. That is what it is all about.

Now, the CDC estimates that smoking among high school students has risen 32 percent since 1991—32 percent. The tobacco companies say they are going to cut down on their advertising to kids and stuff. If they really want to do that, get rid of the Marlboro Man. You don't see the Marlboro Man disappearing, do you? No, he is still out there. And the Virginia Slims and all that kind of stuff is still out there; the Marlboro gear—that is all out there. They are still hooking kids.

Tobacco, an estimated $50 billion a year in health care costs alone, and a big portion of that is borne by the Federal taxpayers who finance over half the costs of Medicaid.

Again, to repeat for emphasis' sake, what does the Specter amendment do? It only would require the States to use 20 percent of the total settlement to reduce tobacco use and 30 percent for public health programs or tobacco farmer assistance, helping some of our tobacco farmers, and we would then waive the Federal claim to the tobacco settlement funds. We do not dictate what the States spend their money on. If the States want to take their portion and build a sports arena, that is up to the voters of that State. I can tell you if it happened in my State, I would be on the side of any other taxpayers in my State, suing the Governor or anybody else who was spending the money that way, because I think that money is held in trust for the very purposes which I just enumerated, and that is to cut down on smoking and to help the public health.

CBO estimates the Federal share would be about $14 billion over 5 years.

Others are saying that the Federal Government had no role in these lawsuits. I just covered that.

Under the Social Security Act, it is the responsibility of the States to recover any costs and, in fact, the law states that only the States can file such suits.

I want to correct something that was said last night by my colleague from Alabama, Senator SESSIONS. He claimed that only one State had filed suit to recover tobacco-related Medicaid costs. Sorry. That is wrong. In fact, the following States had Medicaid claims in their lawsuits: Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Florida, Hawaii, Iowa, Illinois, Indiana, Kansas, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, New Jersey, New Mexico, New York, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Texas, Utah, Washington and Wisconsin—all had Medicaid claims in their lawsuits.

I think this is really the crux of it—whether or not a State included a Medicaid claim isn't the issue. The fact is every State that settled in November of 1998, and that included all 50 States and the territories, even those that did not include a Medicaid claim in their suit, waived their right to recover tobacco-related Medicaid costs in the future. Why do you think that was put in the settlement? If, in fact, the lawsuits were not about Medicaid, why do you think that the tobacco companies came in and insisted, as a condition of the settlement, that the States had to waive their right for any future suits based on Medicaid? It is curious. If that is not what this was all about, why did they put that in there? Because the tobacco companies, smart lawyers that they have got, knew this is what it is about. It is about health care. It is about hooking kids on smoking.

They could see that the States are going to get all this money. What do the States want to do with it? They want to reduce debt. They want to build prisons and highways. They want to reduce taxes.

How many are going to use it to cut down on what the tobacco companies are most afraid of? What they are afraid of is losing young people who would not be smoking, who won't take up the habit. That is what they are afraid of. That is why they put it in there. Not only did the settlement waive the right of the States forever to sue to recoup for Medicaid, it waives our rights, the Federal Government's rights to sue. Why? Because under the Social Security law, only the States can sue for recoupment under third parties. When they waive their right, they waive our rights. The States, in making this deal with the tobacco companies, have effectively taken away the right of the Federal Government to go into court and to go after tobacco companies to get the Federal taxpayers' share of the money for the health care costs of Medicaid. That is what it is about.

The provision put in by the Senator from Texas says let them have it. Let the States have all this money. If they want to build highways, let them build them. I tell my colleagues, I know where the tobacco lobby is on this one. The tobacco lobby is foursquare for this provision in the bill, because they do not want States spending money to cut down on teen smoking. Some States will. I compliment and commend the Governor of my own State of Iowa who has said that they will use a large portion of this for education, intervention, cutting down on youth smoking. How much, I do not know, a large portion of it.

Again, this is a bipartisan, commonsense amendment. For the life of me, I do not know why anyone would oppose it, unless it is under some theory that we can't tell the States what to do with this money. I don't want to tell the States what to do with their money, but when the Federal taxpayers provide over 50 percent of Medicaid monies to the States and we are paying 50 billion bucks a year in health-related costs and much of that through Medicaid, then I think we have a right and an obligation to say that some portion of that money that is Federal money ought to go for health-related purposes.

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

Mr. HARKIN. Mr. President, I ask unanimous consent for 3 additional minutes.

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

Mr. HARKIN. For example, in Maine, I am told the Governor wants to use it for a tax cut. In Michigan, the Governor wants to use the settlement for college scholarships; no funds for tobacco prevention. The Nevada Governor wants it for college scholarships. New Hampshire's Governor wants the money for education; no proposal on tobacco. In New York, the Governor wants to spend 75 percent for debt relief. In South Dakota, the Governor wants money for prisoners, nothing on tobacco. In Rhode Island, the Governor wants money to cut the car tax. That is all well and good, but that is not what this is about.

I say to my friends, we have a statement of policy from the Executive Office of the President which says, referring to the emergency supplemental bill, S. 554:

> Were the bill to be presented to the President with the Senate Committee's proposed offsets and several objectionable riders discussed below, the President's senior advisers would recommend that he veto the bill.

One of the provisions:

> A provision that would completely relinquish the Federal taxpayers' share of the Medicaid-related claims in the comprehensive State tobacco settlement without any commitment whatsoever by the States to use those funds to stop youth smoking. Federal taxpayers paid more than half, an average of 57 percent of Medicaid smoking-related expenditures. The Administration believes that the States should retain those funds but should make a commitment that the Federal share of the settlement's proceeds will be spent on shared national and State priorities: to reduce youth smoking, protect tobacco farmers, improve public health and assist children.

So there we have it. If this amendment stays in there untouched, the President's senior advisors will recommend a veto.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I want to thank my Scottish cousin, Senator GRAHAM, for letting me go first so I can go back to the Budget Committee.

I am very happy to be here and join both Senator GRAHAM of Florida and my colleague from Texas in strongly opposing this amendment.

The idea that the Federal Government is trying to seize $18.9 billion from the States to spend in Washington, DC, when we had nothing to do with their settlement and when we were in the process of trying to impose our own taxes and, in fact, when the President has in his budget the imposition of new taxes on tobacco, is absolutely outrageous.

The amazing thing is the President proposes taking the money away from the States and then giving them a bunch of money, but then telling them how to spend it.

This amendment is the height of absurdity. In my State, this amendment would tell Texas that we have to spend $4 billion on smoker cessation. We could literally hire thousands of people and have a personal trainer for each person who are chewing tobacco or dipping snuff. Why should the Federal Government have the right to tell the States how to spend this money?

I suggest our colleagues read the tenth amendment of the Constitution—powers not specifically delegated to the Federal Government are reserved to the several States and to the people.

This amendment is an outrageous power grab. Where we in Washington, the day before yesterday, were trying to be the school board for all America, now we are trying to tell the States how to get people to stop smoking, when we have done a very poor job of it in the Federal Government. We are trying to tell the States how to spend their money. Somewhere this has got to stop. My suggestion to our colleagues is, if you want to run the schools in America, quit the Senate and go run for the school board.

If you want to be a State legislator, leave the Senate and run for the State senate or the State house or run for Governor. Our job is not to tell the States how to spend their money.

This is an outrageous amendment. I just cannot understand the logic of this, other than the belief that only we know what is best. The idea that we on the floor of the Senate will tell Texas how they have to spend $4 billion over this period is absolutely absurd—that Texas has to file a report every year

with Health and Human Services, and then they have to approve how Texas is spending its own money that the Federal Government had nothing to do with, had no part in claiming, no role in the settlement. In fact, in the President's budget this year where he tries to reclaim this money, he is talking about imposing a tobacco tax. Are we going to let the States tell us how to spend that money? I think not.

I congratulate my colleague from Texas. This is an amendment that deserves to be defeated overwhelmingly. I hope 80 or 90 of our fellow Senators will vote against this amendment. Again, if you want to tell Texas how to spend its money, quit the Senate, move to Texas, establish residence, run for the State legislature; if you can get elected, go at it. But do not get elected from another State and come here and try to tell our State or any other State how to spend its money.

The Federal Government needs to butt out. We have plenty of our own problems to deal with here. Social Security is going broke, Medicare is going broke quicker, and what are we doing? The day before yesterday, we were trying to run all the schools in the country as a national school board. Today we are trying to spend money in every State to tell them how to deal with their tobacco settlements.

It seems to me we are running away from real problems that we ought to be solving and trying to find somebody else's problems to solve where we don't have any responsibility if things go bad.

Again, I congratulate my colleague from Texas. I congratulate the Senator from Florida. I thank him for letting me come in and speak at this time. I yield the floor.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. If the Senator will withhold, does the Senator from Texas yield to the Senator from Florida?

Mrs. HUTCHISON. I yield 10 minutes to my colleague.

Mr. GRAHAM. Mr. President, I thank my colleague and Teutonic cousin for his kind remarks and for his comments against this misguided amendment.

First, I strongly support the original purpose of this legislation, which is to provide relief to our neighbors in the Central American countries and the Caribbean which were so devastated last year by a series of hurricanes.

I had the opportunity to visit Honduras, Nicaragua, El Salvador, and Dominican Republic which were primarily affected by those hurricanes and can testify that the need is great and that the humanitarian assistance which the United States has already provided, and which this legislation will allow us to continue, has been of immeasurable value and has added to the strength of the relationship between the United States and those affected countries.

I also strongly support the tobacco recoupment amendment which was added in the Appropriations Committee by my colleague, the Senator from Texas. In addition to the wisdom of the amendment, there is a sense of urgency to move forward with this. Many State legislatures are meeting as we meet this week. Many of those legislatures are well along toward their adjournment date. Many of those States are awaiting our action on this issue to make a determination as to what is the most appropriate way to utilize funds that have been secured through the tobacco settlement for purposes that will benefit their citizens.

We need to resolve this issue and resolve it in a way that has been suggested by the amendment recommended by the Appropriations Committee, which is that the Federal Government keep its hands off this money which has been secured solely as a result of the actions of the States.

Let me give a brief history of this issue, with particular focus on the State of Florida, which was one of the first four States to secure an individual settlement with the tobacco industry.

Under the leadership of our departed friend and colleague, Lawton Chiles, the Florida Legislature amended its law to allow a specific statute to be passed, under which the State brought litigation against the tobacco industry. At the time that occurred, Governor Chiles wrote a letter to Attorney General Janet Reno suggesting that the Federal Government join in the lawsuit—not join in the lawsuit as it relates to any specific claim, such as the Medicaid claim, but, rather, join in the lawsuit to advance Federal interests that were at stake. I will talk later about what those Federal interests are.

This is the letter—and I quote it in part—dated June 6, 1995, which was sent from the Attorney General to the Governor of Florida:

> DEAR GOVERNOR CHILES: Thank you for your letter concerning the possibility of the Department of Justice participating in the State of Florida's lawsuit against cigarette manufacturers. As you know, similar suits have been filed by the States of Mississippi, Minnesota and West Virginia. At my request, the Department's Civil Division has been monitoring the tobacco litigation. Thus far, we have not been persuaded that participation would be advisable. We will continue to actively monitor these cases, however, and will reconsider this decision should circumstances persuade us otherwise in this regard.

There were no subsequent reconsiderations, and the Federal Government essentially said, ''We will stand apart from these States' efforts.'' Stand apart until the States, having spent enormous amounts of money, effort, and political resources now have secured a settlement.

At this point, the Federal Government wishes to invite itself back into this litigation by, in the President's budget proposal, taking half the money and having the Federal Government spend it or, in this amendment proposal, having the Federal Government serve as the parent for the States and tell them how to spend their tobacco settlement money.

The assumption of this legislation started with another letter from Washington which went to the States which stated, in effect, that the Federal Health Care Financing Administration was going to initiate an administrative collection procedure under an arcane provision of the Social Security statute—specifically, 1903(D)(3)—in which it would recoup a substantial portion of the States' settlements.

The specific language which was relied upon by the Federal Health Care Financing Administration is the language which states:

> The pro rata share to which the United States is equitably entitled, as determined by the Secretary, of the net amount recovered during any quarter by the State or any political subdivision thereof with respect to medical assistance furnished under the State plan. . . .

Mr. President, I argue that that statute, which is the basis of the Federal efforts to recoup, is inapplicable to the tobacco litigation. What that statute was intended to do was, in the case where a State had, for instance, overpaid a provider and subsequently received a repayment, that a portion of that repayment that was related to the percentage of the Federal Medicaid share under the State Medicaid plan would go back to the Federal Government.

This was not recovered pursuant to any State health care plan. It was recovered based on litigation brought by the States on a variety of claims against the Federal Government. And that is the first of two fundamental erroneous assumptions behind this amendment. And that first assumption is that 100 percent of the collections that the States have made were as a result of the Medicaid claims; and, therefore, that the Federal Government can legitimately assume the right to control its share or 50 percent of those funds. That assumption is just fundamentally incorrect.

First, Florida's causes of action included a violation of the State's RICO statute, the Racketeer-Influenced and Corrupt Organizations statute. Fourteen other States filed a similar RICO claim. Remedies available to the States under RICO statutes are enormous: disgorgement of profits and treble damages. I argue that these claims far exceed any money damages available under the Medicaid claim.

Twenty-eight States filed claims under violations of consumer protection laws. Remedies include significant monetary penalties per violation—per sale of each pack of cigarettes—plus disgorgement of profits. For instance, the Missouri remedy allows for a penalty of $1,000 per pack of cigarettes sold. The Oregon remedy was up to $25,000 per violation, which could have potentially totaled billions of dollars.

Thirteen States filed under public nuisance. In Iowa, the remedy requested was equal to not the profits made through cigarette sales, but the price of cigarettes sold in each year involved.

Twenty States filed antitrust claims. Available remedies again include disgorgement of profits and treble damages.

In three States, the courts dismissed the Medicaid claims—Indiana, Iowa, and West Virginia. So those States' claims could not have included a Medicaid component because it had been rejected by the courts prior to the settlement.

Further, the State of Florida, which did have a Medicaid claim among all of its other claims, estimates that at most only 10 percent of its entire settlement could have been attributed to Medicaid.

I ask the Senator from Texas if I can have an additional 5 minutes.

The PRESIDING OFFICER (Mr. SANTORUM). Does the Senator from Texas yield an additional 5 minutes?

Mrs. HUTCHISON. I am happy to yield an additional 5 minutes to the Senator from Florida. If he can take any less than that, we have other Members signed up for the time. Thank you.

Mr. GRAHAM. So Mr. President, the first assumption that all this money was generated by Medicaid claims is fundamentally inaccurate.

The second assumption, which is that unless Washington acts the States will fritter this money away, is a fundamental assault against the principles of Federalism: That we are a Nation in which political power is divided between the States and the Federal Government, and that we have a respectful appreciation of the responsibility of our State partners.

In the case of the State of Florida, through the use of the initial tobacco settlement money, 250,000 children who previously did not have financing for health care now have that financing. That was proposed by former Governor Lawton Chiles. Current Governor Jeb Bush has suggested the establishment of an endowment so that these funds would be protected in perpetuity and the interest earnings from that endowment would be used for a variety of children's and seniors' programs. That not only indicates the care with which the States are using, but the fact that it is a bipartisan issue, the appropriate use of these funds.

Let us face it, those State officials, those Governors, those State legislators are just as much accountable to the voters as we are. And should they act in a way that the voters consider to be inappropriate, they will suffer the consequences of those actions.

Mr. HARKIN. Will the Senator yield?

Mr. GRAHAM. Let me complete my final comments, and then I will yield.

Mr. HARKIN. OK.

Mr. GRAHAM. Mr. President, what we have at stake here is that the Federal Government is dealing with the wrong issue at the wrong time. It is time for the Federal Government to move on. The way in which the Federal Government should move on is by pursuing its own litigation against the tobacco industry rather than trying to steal a portion of the State settlement.

I was, therefore, very pleased that the President, in his State of the Union Message, indicated that it was the intention of the Federal Government to pursue precisely such a course of action.

Let me say, Mr. President, that for those of us, like Senator HARKIN and others, who joined last year in an effort to craft a bipartisan tobacco bill, we recognize that the most significant way in which we will reduce teenage smoking is to increase the price of cigarettes. Every other technique to reduce teenage smoking pales in comparison with increasing the price. The Centers for Disease Control has estimated that for every 10-percent increase in the price of cigarettes, there will be a 7-percent reduction in smoking by teenagers.

The Federal Government's potential claims against the tobacco industry are much greater than the States. The Medicare Program is much larger than Medicaid. The Federal Government has all the array of antitrust and RICO claims which the States so successfully pursued.

What we need to be encouraging the administration to do is to aggressively carry out the direction of the President to effectively bring action against the tobacco industry. And those will be the funds that will be 100 percent under the control of the Federal Government for the purposes that it considers most appropriate.

My own feeling is that we ought to use a substantial share of those Federally derived funds from successful litigation against the tobacco industry to add to the solvency of the Medicare trust fund, and then to use a portion of those to assist in financing what the American people desperately want, which is a prescription drug benefit, a major share of which will go to dealing with the illnesses generated by tobacco use.

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

Mr. GRAHAM. So Mr. President, I appreciate the leadership that the Senator from Texas has provided. I appreciate her generosity and time. I urge the defeat of this amendment.

Mr. MCCAIN. Mr. President, I rise today in support of this amendment offered to earmark a portion of the tobacco settlement proceeds for health and anti-smoking programs. The use of the money for these purposes goes to the very heart of my support for the global settlement a year ago and my reason for sponsoring a bill to implement the settlement.

It was never my intention or understanding that this money would be used for building roads, prisons, or to simply inflate the government's coffers. It was my understanding and intent that the money would be used primarily to fight the evils of the tobacco industry and to keep 3,000 kids a day from starting to smoke.

I am also a strong proponent of states' rights. In considering this amendment, it is my understanding that no federal approvals are required, but only that reports be filed demonstrating that the funds are being used in programs designed to achieve the public health goals of the litigation. This information is important for Congress and the Administration to have so that we can continue to evaluate the need for federal legislation addressing any issues not covered by the settlement agreement. If the states are successful in achieving what the litigation and settlement set out to achieve, then there will be no need for additional action. If not, we can revisit the issues.

I do not perceive this amendment as requiring federal approval of all state spending or programs, but as an informational requirement. I am certainly open to further discussion on how to best ensure that the money is being spent as intended, to keep kids from smoking.

I hope that we will continue the dialogue on this very important issue and that we can reach consensus on how to ensure that the settlement funds are used to protect kids, if not today, then as the bill progresses to the House and conference.

Mr. KENNEDY. Mr. President, I am very concerned about a number of provisions in the supplemental appropriations bill.

First, I strongly oppose the offsets included in this bill, which will take money away from programs that help the most vulnerable Americans.

Before I discuss the specific offsets, let me begin with a reminder—emergency supplemental funds do not need to be offset. This is the law and it is grounded in the understanding that Congress needs to act expediently when disaster strikes. Emergencies are just that, emergencies, and they require swift action and the ability to release funds quickly. We do not need offsets to provide essential assistance to Central America, our farmers, or U.S. steel workers.

Nevertheless, a series of offsets have been proposed that will hurt the most vulnerable Americans, low-income children and families and immigrants. Included in their offset package, are proposals to defer $350 million in Temporary Assistance to Needy Funds (TANF), a $285 million cut in the Food Stamp Program, and a $25 million recision in INS programming which will reduce INS' ability to provide immigration benefits and services. A $40 million cut in INS border enforcement is also being proposed.

Taking from one poor, vulnerable community to pay for the needs of another is unacceptable. We must draw the line here to prevent the raiding programs that help poor children and families.

In 1996, when the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) was passed, Congress gave states the authority and flexibility to design their own unique

programs to help low-income families move from welfare-to-work. The TANF program provides fixed block grants to the states totaling approximately $16.5 billion annually. TANF is a new program that supports a wide array of services. States are using their funds to assist needy families, strengthen job preparation, and promote self-sufficiency. Across the country, states and social service agencies are developing and implementing the best strategies to move their clients from welfare to self-sufficiency.

In addition to giving states the authority to develop their own assistance programs for low-income families, Congress also gave them the power to carry forward unobligated TANF funds for future use. States were expressly given the ability to tap into unspent funds at any point during the five-year block grant period, to optimize flexibility and meet their own unique needs and circumstances. In FY98, states obligated or spent 84% of the total federal funds received. Nineteen states have obligated 100% of their FY98 TANF funds.

The Republican Leadership seems to have confused ''unobligated'' with ''unneeded.'' Nothing could be further from the truth. There are a variety of reasons why some states have unobligated funds. Many states have specifically set aside part of their funds in a ''rainy day'' account. This reflects wise planning. The strong economy and low unemployment rates which we are currently enjoying may not last forever. These states will be prepared because they have set aside sufficient funds to protect themselves if the economy turns downward.

Other states have experienced large caseload declines but require further state legislative action to reprogram funds from cash assistance to other investments, such as child care and job training, which promote work and end dependency. Other states have proceeded slowly because they chose to engage in careful planning and needs assessment research before embarking on innovative new efforts to move people from welfare to work. Now, they are ready to utilize their funds, and now the feds are trying to take back these funds.

Let me also point out that unobligated funds are not surplus funds. These funds are essential to the overall success of welfare reform. Many of the families remaining on welfare face substantial barriers to employment including lack of educational and workforce skills, substance abuse, domestic violence, and disability. States anticipate that greater investments will be required if families are going to successfully transition from welfare-to-work. As an increasing number of families with infants and young children move into the work force, the need and competition for child care, particularly during evening hours, will continue to expand. Without assistance, many states will not be able to provide needed services to low-income families.

Now, just a few years after dramatically overhauling the welfare system, the Republican Leadership wants to take $350 million in unobligated TANF funds to offset some of the expenses incurred by the Emergency Supplemental Act. This is unacceptable. Congress told states to spend their money carefully, to engage in thoughtful long-term planning, and that they could keep their unobligated funds, and here we are two years later, changing the rules of the game.

The Republican Leadership also wants to take $252 million from the Food Stamp Program base appropriations level. Senate appropriators contend that these funds would otherwise be unspent. Once again, the Republicans are taking a short-sighted approach. First, assuming these funds are unspent, they are not unneeded. The current base appropriations level provides an important cushion to meet unanticipated need. Second, recently released statistics on hunger and undernutrition suggest that we need to reinvest in food assistance programming. Hunger is still an urgent problem. The recent decline in food stamp use from 28 million to under 19 million does not mean that hunger is no longer a significant concern. Just a few weeks ago the Urban Institute reported that one-third of America's children are in families grappling with hunger and food insecurity.

We cannot let this happen. We cannot take any more money from programs that help children and needy families. Furthermore, Congress must uphold its commitment to the states—federal money pledged to the states should not be taken away, especially when emergency funding is available without offsets.

Another disturbing aspect of the Supplemental is the inclusion of the Hutchinson Medicaid Amendment. This issue does not belong in an emergency appropriations bill. If approved, the long-term cost to Medicaid of this amendment would be approximately $140 billion. No serious consideration has been given to the enormous impact that could have on national health policy. Instead of being used to deter youth smoking and to improve the nation's health, the language in the Committee bill would permit states to use these federal Medicaid dollars to pave roads, to build prisons and stadiums, and to fund state tax cuts. Those are not appropriate uses for Medicaid dollars. Congress has a vital interest in how those federal dollars are used.

Fifty-seven cents of every Medicaid dollar spent by the states comes from the federal government. The cost of Medicaid expenditures to treat people suffering from smoking-induced disease was at the core of state lawsuits against the tobacco industry. While the federal government could legally demand that the states reimburse Washington from their settlements, I believe the states should be allowed to keep one hundred percent of the money. However, the federal share must be used by the states for programs that will advance the goals of protecting children and enhancing public health which were at the heart of the litigation and are consistent with the purposes of Medicaid. That would be an eminently fair and reasonable compromise of this contentious issue.

While there were a variety of claims made by the states against the tobacco industry, the Medicaid dollars used to treat tobacco-related illness constituted by far the largest claim monetarily, and it formed the basis for the national settlement. As part of that settlement, every state released the tobacco companies from federal Medicaid liability, as well as state Medicaid liability. Medicaid expenditures heavily influenced the distribution formula used to divide the national settlement amongst the states. In light of these undeniable facts, the dollars obtained by the states from their settlements cannot now be divorced from Medicaid. States are free to use the state share of their recoveries in any way they choose. However, Congress has a clear and compelling interest in how the federal share will be used.

States should be required to use half of the amount of money they receive from the tobacco industry each year (the federal share) to protect children and improve public health. At least thirty-five percent of the federal share would be spent on programs to deter youth smoking and to help smokers overcome their addiction. This would include a broad range of tobacco control initiatives, including school and community based tobacco use prevention programs, counter-advertising to discourage smoking, cessation programs, and enforcement of the ban on sale to minors. Three thousand children start smoking every day, and one thousand of them will die prematurely as a result of tobacco-induced disease. Prevention of youth smoking should be, without question, our highest priority for the use of these funds. Reducing youth smoking would, of course, result in a dramatic savings in future Medicaid expenditures. The state settlements provide the resources to dissuade millions of teenagers from smoking, to break the cycle of addiction and early death. We must seize that opportunity.

The remainder of the federal share should be used by states to fund health care and early learning initiatives which they select. States could either use the additional resources to supplement existing programs in these areas, or to fund creative new state initiatives to improve public health and promote child development.

Smoking has long been America's foremost preventable cause of disease and early death. It has consumed an enormous amount of the nation's health care resources. Finally, resources taken from the tobacco companies would be used to improve the nation's health. A state could, for example, use a portion of this money to help

senior citizens pay for prescription drugs, or to provide expanded health care services to the uninsured. Funds could be used to support community health centers, to reduce public health risks, or to make health insurance more affordable.

For years, the tobacco companies callously targeted children as future smokers. The financial success of the entire industry was based upon addicting kids when they were too young to appreciate the health risks of smoking. It is particularly appropriate that resources taken from this malignant industry be used to give our children a better start in life. States could use a portion of these funds to improve early learning opportunities for young children, or to expand child care services, or for other child development initiatives.

Congress has an overwhelming interest in how the federal share of these dollars is used. They are Medicaid dollars. They should not be used for road repair or building maintenance. They should be used by the states to create a healthier future for all our citizens, and particularly for our children.

These problems with the supplemental need to be fixed. Congress shouldn't let emergency assistance get bogged down by these extraneous provisions. A clean supplemental should be approved as quickly as possible so that this aid can go out quickly to those in greatest need.

Mr. GRASSLEY. Mr. President, I rise today to express my opposition to the amendment offered by Senators SPECTER and HARKIN that is based on a ''Washington Knows Best'' policy. Under this amendment, every Governor—each year—for the next 25 years would be required to submit a plan to Washington asking for permission on how to spend fifty percent of the state's own money. I'm voting ''no'' to this ''Washington Knows Best'' amendment.

My state of Iowa stands ready to receive $1.7 billion over the next 25 years for its share of this landmark settlement. Iowa began a thoughtful process years ago to establish a framework to guide the state on how to utilize these new resources should the state succeed with its case against the tobacco industry. Two years ago, after much state and local deliberation, the Iowa Legislature passed laws establishing a governing framework. Now that success has come for Iowa, it is prepared. Among top priorities for the use of these new funds are increased medical assistance and programs to reduce teen smoking. Furthermore, Iowa's Governor Vilsack enthusiastically advocates a number of new initiatives for combating teen smoking, including an initiative to spend $17.7 million of its settlement money on tobacco prevention and control programs. I am confident in the leadership of our Governor and State Legislature in deciding how to best spend its resources for the well-being of Iowans.

The states are entitled to the full amount of their settlement. Years ago, the states began to organize their case against the tobacco industry. They sought assistance from the federal government in their efforts, but received none. The states took on all the risk, and invested all of the time, money and energy. They have been rewarded for their commitment to the case with a landmark settlement. It is unfair for Congress, at this very late stage, to dip into the state's multi-billion dollar settlement. What's more, last year Congress made attempts at a federal settlement but failed. Congress is in no position to interfere with what the states have independently accomplished.

Mr. CRAIG. Mr. President, as a cosponsor of Senator HUTCHINSON'S bill to protect the states' claims on the funds from the settlement that they negotiated with the tobacco industry, I oppose the Harkin-Specter amendment.

I am not a lawyer, and maybe that's why I'm not particularly impressed by all the legal hairsplitting we've been hearing from the government's lawyers about their claim to these funds. But you don't have to be a lawyer to recognize unfairness when you see it.

In fact, I think my little granddaughter would recognize the story that's unfolding in Washington today: it's called the ''Little Red Hen.'' As my colleagues probably will recall, this story is about some people doing all the work and other people, who didn't lift a finger to help, wanting to share in the product of that work.

In this case, we have the states who initiated lawsuits against the tobacco industry, who took all the risks, who received no assistance from the federal government in making their claims, and who ultimately succeeded in negotiating the historic Master Settlement Agreement last November. Now that the work has been done by these 46 little red hens, and the other four who negotiated individual settlements, the federal government wants to sweep in and take over.

Mr. President, I do not think what we have here is an attempt to assert legal rights, but an attempt to assert control. Quite simple, the federal government wants to direct the spending of these funds by the states, despite the fact that this effort is likely to provoke more litigation, which in turn will only prevent the funds from being used to benefit the health or welfare of any state's residents. I do not think the federal government has the law on its side, and I know it doesn't have the equities or even common sense on its side.

At this point, I ask unanimous consent to have printed in the RECORD a letter from Idaho Attorney General Al Lance, objecting to the attempted money grab.

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

OFFICE OF THE ATTORNEY GENERAL,
Boise, ID, January 13, 1999.

Hon. LARRY CRAIG,
U.S. Senate, Washington, DC.

Re: Idaho tobacco settlement monies.

DEAR SENATOR CRAIG: You are no doubt aware that Idaho settled its lawsuit against the tobacco defendants. Under the settlement agreement, Idaho is set to receive annual payments totaling $711 million over the first 25 years of the settlement. Now that the settlement is complete, it is my understanding that the Clinton Administration intends to lay claim on a significant portion of settlement monies for its own use. This is wrong. I ask that you help Idaho protect itself from this money grab by supporting appropriate federal legislation.

Idaho was one of 40 states that filed suit against various tobacco defendants, alleging violations of various state statutes. In Idaho's complaint we sought reparation for damages incurred by the State, as well as civil penalties, costs, and fees as a result of the defendants' actions. We alleged as damages the increased Medicaid costs attributable to tobacco use, which Idaho has spent, as well as the increased insurance premiums attributable to smoking that the State has paid for its state employees. We sought civil penalties under our consumer protection laws.

Section 1903(d) of the Social Security Act provides that a State must allocate from the amount of any Medicaid-related recovery ''the pro-rata share to which the United States is equitably entitled.'' Relying upon this statute, it is our understanding that the Health Care Financing Administration will be taking the position that Idaho's settlement payments represent a credit applicable to Idaho's Medicaid program, regardless of whether the monies are received directly by the State's Medicaid program. This should not be so.

It is not equitable for the federal government to take the fruits of the states' efforts. This is particularly true in this case. Idaho filed its suit, took significant risks, and fought for significant changes in how the tobacco industry will market its products. What did the Clinton Administration do in this regard with the federal government's vast resources? Nothing.

I have great confidence that Idaho's Legislature will properly determine how Idaho's tobacco proceeds should be spent. I am sure you share that trust as well. That will not happen, however, if the federal government is allowed to take that money and spend it as it pleases. I ask for your assistance in making sure that does not happen.

Sincerely,

ALAN G. LANCE,
Attorney General.

Mr. CRAIG. I wholeheartedly agree with Attorney General Lance's confidence that the Idaho state legislature is quite capable of properly determining how Idaho's share of the tobacco settlement should be spent.

It is my strong hope that the Senate will defeat this amendment and allow my state's legislature, and those of the other 49 states, to make these decisions without interference.

Mrs. MURRAY. Mr. President, we have a difficult decision before us. I believe most, if not all of us, hope the states will do the right thing and spend the tobacco litigation money to stop underage smoking, reduce adult smoking, and provide critical public health services. I know I am unequivocally committed to those objectives and will

therefore support the Specter-Harkin amendment to ensure they do so.

That said, I want the states to have the greatest degree of flexibility and discretion in allocating these settlement funds to the health needs of their residents as possible. This amendment does just that. It broadly requires states to spend 20 percent of the settlement on programs to reduce the use of tobacco products, including enforcement, school education programs, and advertising campaigns. It also requires 30 percent to be spent on public health.

If we do not reduce smoking and stop at least some of the 3,000 new kids per day from smoking, the federal taxpayer will end up the loser. That is why we should have a voice in directing use of these funds. The Medicare Trust Fund is financially solvent only until 2009, so we need to do everything possible to reduce overall health care costs. If one state does not reduce the deadly impact of smoking, the federal taxpayers will foot the bill. So, all American taxpayers have a big stake in reducing smoking. They have the right to push all states to save their tax dollars by reducing health care costs.

Still, the Specter-Harkin amendment targets only a portion of settlement dollars; just that portion that could be attributed to the federal share of Medicaid. Because Medicaid is a federal-state partnership and the settlement includes claims arising out of this program, federal taxpayers have a valid claim to make in how those settlement dollars are spent.

I am proud of my home state of Washington. It has already made a commitment to public health and smoking reduction. The Specter-Harkin amendment only reinforces what my state has done. Once again Washington state is a leader on protecting public health and saving the premature death of five million of today's children. I have attached a letter I received from the Western Pacific Division of the American Cancer Society urging me to support this amendment for these very reasons, to support the ''health of our kids and our families.''

I also continue to support Senator HUTCHINSON's work to ensure the states receive the credit they deserve. They have scored a major victory for public health. The success of the Attorney's General in their settlement with the tobacco companies is unprecedented. I applaud them and especially Washington's Attorney General, Chris Gregoire, who has been a champion in this cause.

The federal government must not rely on the states to do all of its work for them. It is the responsibility of the federal government to recover Medicaid funds and I will urge the Administration to move forward with necessary litigation. The federal government must seek restitution from the tobacco companies for the years of lies and deception that have resulted in the premature deaths of millions of Americans. Smoking-related illnesses are still the number-one killer of Americans.

I am pleased Senators SPECTER and HARKIN could find the appropriate balance between the rights of the states to enjoy their well-deserved settlement funds and the rights of federal taxpayers to ensure those funds are spent to protect the public health and reduce their future tax obligations under Medicare and Medicaid by reducing the cost of tobacco-related illnesses.

The PRESIDING OFFICER. Who yields time?

Mrs. HUTCHISON. Parliamentary inquiry. How much time do I have left?

The PRESIDING OFFICER. The Senator has 13 minutes.

Mrs. HUTCHISON. Thank you, Mr. President.

Mr. HARKIN. Parliamentary inquiry. How much time do we have left?

The PRESIDING OFFICER. Ten minutes 11 seconds.

Mrs. HUTCHISON. Does the Senator from Iowa wish to go at this time? Because if not, Senator VOINOVICH was next in line for our side.

The PRESIDING OFFICER. Time is controlled by the Senator from Pennsylvania.

Who yields time?

Mrs. HUTCHISON. Mr. President, I yield up to 5 minutes to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio is recognized for 5 minutes.

Mr. VOINOVICH. Mr. President, as a former Governor, I introduced my own tobacco recoupment legislation. I am pleased to be an original cosponsor of Senator HUTCHISON's and Senator GRAHAM's bipartisan legislation.

Under this settlement, the tobacco companies agreed to pay 46 States, including Ohio, $206 billion over 25 years. Four other States previously won a $40 billion settlement. Ohio was slated to receive $9.8 billion over 25 years, beginning with $400 million in 2000 and 2001.

I just want you to know that the Nation's Governors are adamantly opposed to imposing restrictions on State funding. I have distributed a letter from the chairman and vice chairman of the National Governors' Association. It will be on the desk of all of the Senators expressing their adamant opposition to the amendment.

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

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

NATIONAL GOVERNORS' ASSOCIATION,
March 17, 1999.

Hon. TRENT LOTT,
Majority Leader, U.S. Senate,
The Capitol, Washington, DC.

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

DEAR MAJORITY LEADER AND SENATOR DASCHLE: As the Senate moves forward with consideration of the Emergency Supplemental Appropriations bill, we write to inform you of the nation's Governors' strong support for language now included in the bill that would protect state tobacco settlement funds. In addition, we are adamantly opposed to any amendments that would restrict how states spend their tobacco settlement money. The settlement funds rightfully belong to the states, and states must be given the flexibility to tailor the spending of the tobacco funds to the needs of their citizens.

There is a proposal under consideration, the Harkin/Specter amendment, to require states to earmark 20 percent of the settlement funds for smoking cessation programs, and an additional 30 percent for health care programs. Governors are adamantly opposed to any restrictions on the tobacco settlement funds, but even more so to this proposal, because it obligates state tobacco settlement funds to federal programs or to specific state programs only if approved by the Secretary of HHS.

Furthermore, although the nation's Governors agree with the goal of substantially reducing smoking, we are strongly opposed to earmarks on smoking cessation on the basis that it represents unsound public policy. There are already four major initiatives that are going into effect to reduce smoking.

1. The price of tobacco products has already increased between 40 cents and 50 cents per pack. Additional price increases may come over time as companies attempt to hold profit margins and make settlement payments. These price increases will substantially reduce smoking over time.

2. The tobacco settlement agreement already contains two major programs funded at $1.7 billion over ten years dedicated to reducing smoking. $250 million over the next ten years will go towards creation of a national charitable foundation that will support the study of programs to reduce teen smoking and substance abuse and the prevention of diseases associated with tobacco use. An additional $1.45 billion over five years will go towards a National Public Education Fund to counter youth tobacco use and educate consumers about tobacco-related diseases. The fund may make grants to states and localities to carry out these purposes.

3. The settlement agreement has a significant number of restrictions on advertising and promotion. The settlement prohibits targeting youth in tobacco advertising, including a ban on the use of cartoon or other advertising images that may appeal to children. The settlement also prohibits most outdoor tobacco advertising, tobacco product placement in entertainment or sporting events, and the distribution and sale of apparel and merchandise with tobacco company logos. Further, the settlement places restrictions on industry lobbying against local, state, and federal laws. Over time, these restrictions on tobacco companies' ability to market their products to children and young adults will have a major impact on smoking.

4. States are already spending state funds on smoking cessation and will substantially increase funding as the effectiveness of programs becomes established. Many states have already invested years in program design, modification, and evaluation to determine the best ways to prevent youth from taking up cigarette smoking and helping youth and adults quit smoking. Governors and states are highly motivated to implement effective programs. We see the human and economic burdens of tobacco use every day in lost lives, lost wages and worker productivity, and medical expenditures for tobacco-related illnesses.

All of these initiatives are likely to substantially reduce tobacco consumption. It would be foolish to require large expenditures over the next 25 years to such programs without a good sense of how these initiatives will reduce the current level of

smoking. Any additional expenditures for smoking cessation must be carefully coordinated with these other four major policy initiatives as they will cause smoking behavior to shift dramatically. Furthermore, while there have been some studies on the effectiveness of alternative smoking cessation programs, the ''state of the art'' is such that we just do not know what types of programs are effective. States are still in the process of experimentation with effective methods of preventing and controlling tobacco use; there is no conclusive data that proves the efficacy of any particular approach.

Governors feel it would be wasteful, even counterproductive to mandate huge spending requirements on programs that may not be effective. Governors need the flexibility to target settlement funds for state programs that are proven to improve the health, welfare, and education of their citizens to ensure that the money is wisely spent. Furthermore, the federal government must maintain its fiscal commitment to vital health and human services programs, and not reduce funding in anticipation of increased state expenditures.

We strongly urge you to vote against the Harkin/Specter amendment and support flexibility for states to tailor the spending of the tobacco funds to the needs of their citizens.

Sincerely,

Gov. THOMAS R. CARPER,
Chairman, State of Delaware.
Gov. MICHAEL O. LEAVITT,
Vice Chairman, State of Utah.

Mr. VOINOVICH. The proposition is clearly unsupportable, for the following reasons:

First of all, States filed complaints that included a variety of claims—consumer protection, racketeering, antitrust, disgorgement of profits and civil penalties for isolations of State laws.

Medicaid was just one of the many issues in many cases. Furthermore, State-by-State allotments were determined by the overall health care costs in each State and not based on Medicaid expenditures—not based on Medicaid expenditures.

Medicaid was not even mentioned in some cases. As a matter of fact, in Ohio the Medicaid claim was thrown out of court. The Federal Government was invited to participate in the lawsuits, but the Federal Government declined. States bore the risk of initiating the suits and the burden of the unprecedented lawsuits against a well-financed industry. It was not until after the States prevailed that the Federal Government became interested.

The tobacco settlement negotiated between attorneys general and the tobacco companies is completely different from the agreement that failed to pass in the 105th Congress.

With the failure of that legislation, the States were forced to proceed with their own State-only lawsuit and settlement.

States must be given the flexibility to tailor their spending to the unique needs of their citizens. And States will spend their funding on a variety of local needs—health, education, welfare, smoking cessation programs.

Many Governors, through their state-of-the-State speeches or proposed legislation, have already committed publicly to spending these funds for the health and welfare needs of their citizens.

The majority of the Governors have already made commitments to create trust funds and escrow accounts that will ensure that the tobacco settlement funds are spent on health care services for children, assistance for growers in the States that will be affected, education, and smoking cessation.

Two major programs—this is really important—in the settlement are already dedicated to reducing teen smoking and educating the public about tobacco-related diseases. Two hundred and fifty million dollars will create a national charitable foundation to support the study of programs to reduce teen smoking and substance abuse and prevent diseases associated with tobacco use. An additional $1.5 billion will create a National Public Education Fund to counter youth tobacco use and educate consumers about tobacco-related diseases.

In addition, the settlement agreement has significant restrictions on advertising and promotion—such as bans on advertising and lobbying against local, State, and Federal laws—which will have an impact on youth smoking. In other words, the tobacco companies can no longer lobby against legislation that will deal with cessation of use of tobacco.

States are already spending State funds on smoking cessation. They don't need the Federal Government to put a mandate in place. There is simply no way that States can spend 20 percent of these funds on smoking cessation programs. These programs cannot absorb this level of funding. As smoking levels decline, as expected under the settlement, it will become impossible for States to spend this level of funding effectively.

This amendment forces States to spend an incredible—listen to this—$49 billion on just one objective: Denying them the ability to use these funds to best meet the needs of their citizens. The notion that the compassion and wisdom of Washington exceeds that of our State capitals is not only wrong, it is offensive. The Governors and the local government officials in this country care as much about smoking cessation as the Members of this Congress.

I will never forget during welfare reform the people who were telling us that we didn't care as much about people as the people in Washington. They said it would be a race to the bottom. The fact of the matter is, it is a race to the top.

Mr. President, I think we should overwhelmingly defeat this amendment. It is not appropriate for this piece of legislation.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. How much time remains?

The PRESIDING OFFICER. The Senator from Texas has 7 minutes 37 seconds.

Mrs. HUTCHISON. I yield Senator BROWNBACK up to 3 minutes.

The PRESIDING OFFICER. The Senator from Kansas is recognized for 3 minutes.

Mr. BROWNBACK. I thank the author of this amendment from Texas, as well as our colleague from Florida.

The idea that we would tell the States how to spend this money from this litigation is absolutely wrong. It is just wrong on its face. The people who are proposing it, I respect their motivation; they are trying to reach out and save lives and to stop these health problems. I think their motivation is appropriate, but the direction and the apportionment that is taking place on the States is the wrong way to do it.

In every State in the country that has been a part of this litigation, there is now ongoing a healthy and vigorous debate about how best to spend the tobacco settlement funds. It is happening in Kansas, my State. I am being contacted by the Kansas Legislature in very strong terms. ''Do you not think that we care about what happens to the people here? Do you not have enough problems in Washington to deal with, that you have to tell us what to do with this? We are the ones who brought this litigation forward.'' They are quite offended that we would try to direct them and tell them what to do with these funds that they pursued in litigation and that they need. They are offended as well because they think we don't believe they know what is best for Kansans.

I agree with them. I laud my colleague from Texas, Senator HUTCHISON, in what she is doing. I note, as well, that in Kansas in the debate and in the funding proposal that we have, 50 percent of all the funds to Kansas are going to children's health care program funds for prevention and cessation. We are putting in 50 percent which was enacted in the legislature. But we should not require them to go to HCFA after they have appropriated the money and see if they agree or see if they are going to have to do something different.

With almost unprecedented unanimity, every State Governor, Attorney General, and State legislature has directly backed the Hutchison-Graham language. In fact, in many cases it is the No. 1 Federal issue for the 106th Congress by a number of these groups. I applaud my colleague. The debate is happening at the right place now. We should not impose a ''Washington knows best'' approach.

Mrs. HUTCHISON. I yield up to 4 minutes to the Senator from Kentucky.

Mr. MCCONNELL. I thank the Senator from Texas for her outstanding leadership on this issue. As has been stated by all the speakers, basically this is an amendment to tell the States how to spend money that they achieve through a settlement with the tobacco industry. Not only money, but a huge amount of money—$40 billion—just on

tobacco use reduction advertising and programs.

To contrast that with the advertising budgets of private enterprise in this country, ''Advertising Age'' said U.S. companies spend a total of $208 billion on advertising all of their products last year. The top 100 advertisers spent a total of $58 billion last year. In California and New York, this would mean $5 billion worth of ads to each of those States; in Pennsylvania, $2.25 billion worth of ads; and in my State, $700 million worth of ads.

Mr. President, this would be one of the most massive advertising campaigns in the history of the country, probably the most massive in the history of the country—public or private. Because advertising rates in my home State are not particularly high, that could translate into over 1,000 days of nonstop TV commercials. That is almost 3 years. And we think political campaigns go on too long.

Contrast this with all Federal Government drug control spending of $16 billion. Members get the picture. If the Specter amendment were approved, we would have the Federal Government spending more money, by far, attacking a legal product than the Clinton administration currently spends in its war on drugs. There is $40 billion targeted at tobacco use, $16 billion against illegal drug use. It makes a person wonder if it would be better to simply pay America's 40 million smokers $1,000 apiece to quit. Send them $1,000 checks each, to quit. It would be a lot cheaper than what we have before the Senate.

As has been stated by other speakers, the National Governors' Association has strongly committed itself to supporting antitobacco programs in the respective States. The States know better how to spend this money and will do so efficiently through existing State mechanisms. If the Federal Government dictates how the States should spend the money and the mechanisms are not there, the States will have to create them—creating even more bureaucracy.

The final outrage is that this amendment requires the elected Governors of the States to report to Secretary Shalala on how they are going to spend their money. This is truly an egregious effort by the Federal Government to dictate to the States how they ought to spend money that they are entirely entitled to under any system of justice.

Let me repeat: This calls for a $40 billion advertising campaign against a legal product, yet the Federal Government currently spends only $16 billion in its illegal drug enforcement effort.

The Hutchison proposal is the correct one. This amendment should be defeated.

The PRESIDING OFFICER. The Senator from Pennsylvania has 10 minutes 11 seconds, and the Senator from Texas has 40 seconds.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. LOTT. Parliamentary inquiry. Rather than just waiting here, whose time is being used?

The PRESIDING OFFICER. The time of the Senator from Pennsylvania is running. If neither side is yielding time, time will have to be deducted equally between both sides.

Mrs. HUTCHISON. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Unless the Senator gets unanimous consent, time will be deducted equally.

Mrs. HUTCHISON. I ask unanimous consent that my 40 seconds be reserved.

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

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I yield 5 minutes to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, I thank my chairman and friend from Pennsylvania for his leadership on this issue.

Again, let's cut through all the arguments, all the smoke and the haze, if you will. What is this about? It is about public health. It is about cutting down on youth smoking. That is what it is about.

Now, my friend from Florida—with whom I wanted to engage in a colloquy, but I understand he had to go to a committee meeting—pointed out that a lot of the States sued on different bases—RICO, racketeering, prices—but 32 States, including Florida, included Medicaid. As any good lawyer can tell you, it is the old ''spaghetti theory'' of suing. You just throw the spaghetti at the wall, and whatever sticks, that is what you go on. They just threw a bunch of stuff in there when they sued to recoup from the tobacco companies.

But it is interesting to note that, in the final settlement, the States waived their rights in the future to sue to reclaim any moneys under Medicaid. Why was that put in there? I will tell you why. Because the tobacco companies wanted it in there, because it not only precluded the States from suing, it precludes the Federal Government from recouping Federal shares of money for the health costs that we pay out in Medicaid to take care of people who are sick and dying of tobacco-related illnesses. That is what this is all about.

Some say we should not mandate to the States how to spend their money. We are not trying to do that. The basis of this is public health. At least a portion of the Federal moneys—not even all of it—ought to go to smoking cessation programs and for a variety of other public health programs.

The Senator from Pennsylvania knows as well as I do—we sit on the Appropriations Committee as chairman and ranking member—we have a lot of public health needs out there. We are getting shortchanged. I know States have needs for highways, bridges, sports arenas, prisons and things like that; but I daresay they did not bring these suits against the tobacco companies because the tobacco companies weren't building enough highways or sports arenas or prisons or anything else. What they brought it on was the health problems that tobacco companies are causing their people.

Well, I might also point out that, in the previous settlement with the Liggett tobacco company, some States did give back their portion of that settlement to the Federal Government, covering the Medicaid portions of those costs. I don't have the exact figures, but I believe Florida was one of those States—Florida, Louisiana, and Massachusetts were the three States that returned some of that money. So that is really what this is about.

I know the Governors have weighed in on this, both Democrats and Republicans. Well, I can understand their point. They are trying to get as much money as they can for their States; that is their responsibility. But it seems to me that we have to look at the national picture and what this is all about. It is about health care and cutting down on teen smoking. That is what this is really about.

To cut through all the smoke and haze, let us do our responsibility to the Federal taxpayers, to the Medicaid Program, and give some guidance and direction—not explicitly saying how the States have to spend it; let them use their wisdom—but give them guidance and direction and say that at least 20 percent has to be used for smoking cessation and 30 percent for a broad variety of other public health measures, including helping tobacco farmers switch from that crop to others. It is the only decent thing to do.

I reserve the time I have. How much time do I have?

The PRESIDING OFFICER. The Senator from Pennsylvania has 4 minutes 31 seconds.

Mr. HARKIN. I yield that back to the Senator from Pennsylvania.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. LOTT. Mr. President, since all time has been used, except for maybe 5 minutes—40 seconds for the opponents and 4½ minutes or so for the proponents—I would like to use leader time to state my position on this issue.

This morning I happened to be listening to one of the Washington, DC, all-news radio stations. There was an ad on there done by the Lieutenant Governor of Maryland, Kathleen Kennedy Townsend, speaking about the importance of tobacco cessation campaigns. Now, I wondered who paid for that, how that was being supported. Why was a Lieutenant Governor—a candidate for Governor—being used in this ad? It relates to this whole debate. I think probably the State of Maryland is paying for that campaign, or maybe it is a campaign unrelated to all this. But the point there is that there is already a lot being done, and there is going to be

a lot more done in the smoking cessation campaigns by the States.

Mr. President, this is a very fundamental argument. It goes to the heart of the broader question: Does the Federal Government have the great wisdom reposing here in the Secretary of HHS, or do States have a certain modicum of wisdom of their own?

Frankly, I trust the Governor of Pennsylvania and the legislature in Pennsylvania. I trust the Governors of Iowa and Illinois, and the legislature in Ohio, and in my own State, to make the best decision for the people in that State. There are those here who think the Federal Government has to review this, the Federal Government has the answer, the Federal Government must direct how this money is spent. I don't agree with that. That is the fundamental argument here on this issue and on a lot of others, as well.

First, a little history. How did this all begin? Well, whether you agree with it or not, or whether I like it or not, it began in my State of Mississippi. An attorney general developed this lawsuit and, to their credit, they did a fantastic job. The Federal Government wasn't involved. The Federal Government could not find a way to get involved. They did it. It was Mississippi, Florida, Texas, Washington State, all across the Nation. The States, through their attorneys general and their lawyers, did the job and they got settlements. They got the money. They won the issue.

Now, the Federal Government shows up and says, oh, by the way, give me that. The truth of the matter is, there are many people in this city who think all of that money, or somewhere between 50 and 77 percent of that money, should come to Washington, even though the Federal Government did nothing to win this settlement. They weren't a positive force. But they have the temerity to show up and say the law requires this or that and they want that money. I want to emphasize again that you are talking about a very substantial portion of that money.

Now, I want to submit for the RECORD—I don't know if there are already in the RECORD—a letter I received from the National Governors' Association, signed by Governor Carper of Delaware, a Democrat, and Michael Leavitt, the Republican Governor of Utah, addressed to Senator DASCHLE and myself.

I ask unanimous consent that this letter be printed in the RECORD, along with a letter I received from Secretary Shalala.

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

NATIONAL GOVERNORS ASSOCIATION,
March 17, 1999.

Hon. TRENT LOTT,
Majority Leader,
U.S. Senate,
The Capitol,
Washington, DC.

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

DEAR MAJORITY LEADER AND SENATOR DASCHLE: As the Senate moves forward with consideration of the Emergency Supplemental Appropriations bill, we write to inform you of the nation's Governors' strong support for language now included in the bill that would protect state tobacco settlement funds. In addition, we are adamantly opposed to any amendments that would restrict how states spend their tobacco settlement money. The settlement funds rightfully belong to the states, and states must be given the flexibility to tailor the spending of the tobacco funds to the needs of their citizens.

There is a proposal under consideration, the Harkin/Specter amendment, to require states to earmark 20 percent of the settlement funds for smoking cessation programs, and an additional 30 percent for health care programs. Governors are adamantly opposed to any restrictions on the tobacco settlement funds, but even more so to this proposal, because it obligates state tobacco settlement funds to Federal programs or to specific State programs only if approved by the Secretary of HHS.

Furthermore, although the Nation's Governors agree with the goal of substantially reducing smoking, we are strongly opposed to earmarks on smoking cessation of the basis that it represents unsound public policy. There are already four major initiatives that are going into effect to reduce smoking.

1. The price of tobacco products has already increased between 40 cents and 50 cents per pack. Additional price increases may come over time as companies attempt to hold profit margins and make settlement payments. These price increases will substantially reduce smoking over time.

2. The tobacco settlement agreement already contains two major programs funded at $1.7 billion over ten years dedicated to reducing smoking. $250 million over the next ten years will go towards creation of a national charitable foundation that will support the study of programs to reduce teen smoking and substance abuse and the prevention of diseases associated with tobacco use. An additional $1.45 billion over five years will go towards a National Public Education Fund to counter youth tobacco use and educate consumers about tobacco-related diseases. The fund may make grants to states and localities to carry out these purposes.

3. The settlement agreement has a significant number of restrictions on advertising and promotion. The settlement prohibits targeting youth in tobacco advertising, including a ban on the use of cartoon or other advertising images that may appeal to children. The settlement also prohibits most outdoor tobacco advertising, tobacco product placement in entertainment or sporting events, and the distribution and sale of apparel and merchandise with tobacco company logos. Further, the settlement places restrictions on industry lobbying against local, state, and federal laws. Over time, these restrictions on tobacco companies' ability to market their products to children and young adults will have a major impact on smoking.

4. States are already spending state funds on smoking cessation and will substantially increase funding as the effectiveness of programs becomes established. Many states have already invested years in program design, modification, and evaluation to determine the best ways to prevent youth from taking up cigarette smoking and helping youth and adults quit smoking. Governors and states are highly motivated to implement effective programs. We see the human and economic burdens of tobacco use every day in lost lives, lost wages and worker productivity, and medical expenditures for tobacco-related illnesses.

All of these initiatives are likely to substantially reduce tobacco consumption. It would be foolish to require large expenditures over the next 25 years to such programs without a good sense of how these initiatives will reduce the current level of smoking. Any additional expenditures for smoking cessation must be carefully coordinated with these other four major policy initiatives as they will cause smoking behavior to shift dramatically. Furthermore, while there have been some studies on the effectiveness of alternative smoking cessation programs, the ''state of the art'' is such that we just do not know what types of programs are effective. States are still in the process of experimentation with effective methods of preventing and controlling tobacco use; there is no conclusive data that proves the efficacy of any particular approach.

Governors feel it would be wasteful, even counterproductive to mandate huge spending requirements on programs that may not be effective. Governors need the flexibility to target settlement funds for state programs that are proven to improve the health, welfare, and education of their citizens to ensure that the money is wisely spent. Furthermore, the federal government must maintain its fiscal commitments to vital health and human services programs, and not reduce funding in anticipation of increased state expenditures.

We strongly urge you to vote against the Harkin/Specter amendment and support flexibility for states to tailor the spending of the tobacco funds to the needs of their citizens.

Sincerely,

GOV. THOMAS R. CARPER,
Chairman, State of Delaware.
GOV. MICHAEL O. LEAVITT,
Vice Chairman, State of Utah.

WASHINGTON, DC,
March 15, 1999.

Hon. TRENT LOTT,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR LOTT: I am writing to express the Administration's strong opposition to the provision approved by the Senate Appropriations Committee as part of the FY 1999 supplemental appropriations bill that would prohibit the Federal Government from recouping its share of Medicaid funds included in the states' recent settlement with the tobacco companies. The Administration is eager to work with the Congress and the states on an alternative approach that ensures that these funds are used to reduce youth smoking and for other shared state and national priorities.

Under the amendment approved by the committee, states would not have to spend a single penny of tobacco settlement funds to reduce youth smoking. The amendment also would have the practical effect of foreclosing any effort by the Federal Government to recoup tobacco-related Medicaid expenditures in the future, without any significant review and scrutiny of this important matter by the appropriate congressional authorizing committees.

Section 1903(d) of the Social Security Act specifically requires that the States reimburse the Federal Government for its pro-rata share of Medicaid-related expenses that are recovered from liability cases involving third parties. The Federal share of Medicaid expenses ranges from 50 percent to 77 percent, depending on the State. States routinely report third-party liability recoveries as required by law. In 1998, for example, states recovered some $642 million from third-party claims; the Federal share of these recoveries was $400 million. Over the last five years, Federal taxpayers recouped over $1.5 billion from such third-party recoveries.

Despite recent arguments by those who would cede the Federal share, there is considerable evidence that the State suits and their recoveries were very much based in Medicaid. In fact, in 1997, the States of Florida, Louisiana and Massachusetts reported the settlement with the Liggett Corporation as a third-party Medicaid recovery, and a portion of that settlement was recouped as the Federal share.

Some also have argued that the States are entitled to reap all the rewards of their litigation against the tobacco industry and that the Federal Government can always sue in the future to recover its share of Medicaid claims. This argument contradicts the law and the terms of the recent State settlement. As a matter of law, the Federal Government is not permitted to act as a plaintiff in Medicaid recoupment cases and was bound by the law to await the States' recovery of both the State and Federal shares of Medicaid claims. Further, by releasing the tobacco companies from all relevant claims that can be made against them subsequently by the States, the settlement effectively precludes the Federal Government from recovering its share of Medicaid claims in the future through the established statutory mechanism. The amendment included in the Senate supplemental appropriations bill will foreclose the one opportunity we have under current law to recover a portion of the billions of dollars that Federal taxpayers have paid to treat tobacco-related illness through the Medicaid program.

The President has made very clear the Administration's desire to work with Congress and the States to enact legislation that resolves the Federal claim in exchange for a commitment by the States to use that portion of the settlement for shared priorities which reduce youth smoking, protect tobacco farmers, assist children and promote public health. I would urge you to oppose efforts to relinquish the legitimate Federal claim to settlement funds until this important goal has been achieved.

Sincerely,

DONNA E. SHALALA,
Secretary of Health and Human Services.

Mr. LOTT. The Governors say:

. . . we are adamantly opposed to any amendments that would restrict how States spend their tobacco settlement money.

They point out that 20 percent of the settlement funds, under this amendment, would have to go for smoking cessation, and then another 30 percent for health care programs. But also what the States do has to be approved by the Secretary of Health and Human Services. Why? What do they have at HHS that the various States don't have, and why can't they decide on their own what is best for their people?

They say in their letter they are opposed to earmarks on smoking cessation on the basis that it represents unsound public policy.

They then go on to say that there are many things already being done. In fact, the settlement agreement contains two major programs funded at $1.7 billion over 10 years dedicated to reducing smoking, and $250 million over the next 10 years will go toward the creation of a national charitable foundation that will support the study of programs to reduce teen smoking. An additional $1.45 billion over 5 years will go toward the National Public Education Fund to counter youth tobacco use and educate consumers about tobacco-related diseases.

So there is a great deal already being done. There is a significant number of restrictions in the settlement with regard to advertising and promotion of smoking. The States are already, on their own, spending funds for the smoking cessation campaign.

The Governors need flexibility. That is what they say. In one State, perhaps, they need more money for smoking cessation. Fine. Perhaps they need more money for child health care. I think under this amendment that would be fine. But in another State perhaps they need it for HOPE scholarships, like Governor Engler in Michigan has been talking about. Or perhaps in another State, like my own, they want to use these funds for juvenile detention facilities, which, by the way, would be smoke-free. But there is a real need there. Let the States make those decisions.

Again, I want to point out that in the letter from Secretary Shalala she notes that the Federal share of Medicaid expenses ranges from 50 to 77 percent. And they don't want anything to happen here that would not allow them to come back around later and try to get more, or large, chunks of this money.

I think that is typical Federal Government arrogance: ''We have the solutions. We have the greater knowledge.'' I fundamentally reject that. I think the people closer to the problems are closer to the people, whether it is the farmers, or the children, or health care needs of the children in their States. I represent one of the poorest States in the Nation. We have tremendous needs for our children based on problems of poverty. We have needs across the board. We know what those needs are better than some all-powerful Federal Government.

So I just want to urge that this amendment be defeated.

I don't think, by the way, that every year for the next 25 years the States should have to submit their plan to the Department of Health and Human Services. Maybe the next Department will be headed by a Republican-appointed Secretary of HHS. ''Frankly, I don't care, my dear.'' I think the States can do this on their own. The Federal Government wants the money. Or, if they don't get the money, they want to control it.

That is one of the reasons I am glad to serve in the Senate today—so I can fight just such ideas as this, that the Federal Government has the answers and should have the control. We should reject this amendment and allow the States to do what is best for their people. They know what the needs are. They will provide the right decision.

I yield the floor.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER (Mr. ALLARD). The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, Senator KENNEDY has been tied up in committee. He has requested 1 minute. I am anxious to see how the distinguished Senator from Massachusetts will handle the single minute. I yield 1 minute to the Senator.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. I thank the Senator, and the Chair.

Mr. President, let me just add my voice in support of the Specter-Harkin amendment. Basically, as we all know, the States have waived the Federal Medicaid rights. So they understand that there are Federal interests. I think it is pretty understandable to all of us, because we understand how the Medicaid Program was established.

The really compelling interest that was successful in the States that brought about the settlement in the first place related to the health hazards that individuals were afflicted with. This seems to me to be an eminently fair and reasonable balance between the Federal interests and the State interests. It seems to be focused in the areas of health care, and also the prevention of smoking. I think that is basically what the families of this country want. It makes a good deal of common sense. It is consistent with what this whole battle has been about, and this is a well targeted, well thought out, and a very compelling amendment to be able to do so.

One of the most disturbing aspects of the Supplemental is the inclusion of the Hutchinson Medicaid Amendment. This issue does not belong in an emergency appropriations bill. If approved, the long-term cost to Medicaid of this amendment could be as high as $125 billion. No serious consideration has been given to the enormous impact that cost could have on national health policy. Instead of being used to deter youth smoking and to improve the nation's health, the language in the committee bill would permit states to use these federal Medicaid dollars to pave roads, to build prisons and stadiums, and to fund state tax cuts. Those are not appropriate uses for Medicaid dollars. Congress has a vital interest in how these federal dollars are used.

Fifty-seven cents of every Medicaid dollar spent by the states comes from the federal government. The cost of Medicaid expenditures to treat people suffering from smoking-induced disease was at the core of state lawsuits against the tobacco industry. While the

federal government could legally demand that the states reimburse Washington from their settlements, I believe the states should be allowed to keep one hundred percent of the money. However, the federal share must be used by the states for programs that will advance the goals of protecting children and enhancing public health which were at the heart of the litigation and are consistent with the purposes of Medicaid. That is what the Specter-Harkin amendment would accomplish. I am pleased to be an original cosponsor of it. It is a fair and reasonable compromise of this contentious issue.

While there were a variety of claims made by the states against the tobacco industry, the Medicaid dollars used to treat tobacco-related illness constituted by far the largest claim monetarily, and it formed the basis for the national settlement. As part of that settlement, every state released the tobacco companies from federal Medicaid liability, as well as state Medicaid liability. Medicaid expenditures heavily influenced the distribution formula used to divide the national settlement amongst the states. In light of these undeniable facts, the dollars obtained by the states from their settlements cannot now be divorced from Medicaid. States are free to use the state share of their recoveries in any way they choose. However, Congress has a clear and compelling interest in how the federal share will be used.

In exchange for a waiver of the federal claim, states should be required to use half of the amount of money they receive from the tobacco industry each year to protect children from tobacco and improve the nation's health. If the funds are used in that way, this investment will dramatically reduce future Medicaid expenditures.

Under the Specter amendment, at least twenty percent of a state's recovery would be spent on programs to deter youth smoking and to help smokers overcome their addiction. This would include a broad range of tobacco control initiatives, including school and community based tobacco use prevention programs, counter-advertising to discourage smoking, cessation programs, and enforcement of the ban on sale to minors. Three thousand children start smoking every day, and one thousand of them will die prematurely as a result of tobacco-induced disease. Prevention of youth smoking should be, without question, our highest priority for the use of these funds. The state settlements provide the resources to dissuade millions of teenagers from smoking, to break the cycle of addiction and early death. We must seize that opportunity.

An additional thirty percent would be used by states to fund health care and public health programs which they select. States could either use the additional resources to supplement existing programs in these areas, or to fund creative new state initiatives to improve health services.

Smoking has long been America's foremost preventable cause of disease and early death. It has consumed an enormous amount of the nation's health care resources. At long last, resources taken from the tobacco companies would be used to improve the nation's health. A state could, for example, use a portion of this money to help senior citizens pay for prescription drugs, or to provide expanded health care services to the uninsured. Funds could be used to support community health centers, to reduce public health risks, or to make health insurance more affordable.

For years, the tobacco companies callously targeted children as future smokers. The financial success of the entire industry was based upon addicting kids when they were too young to appreciate the health risks of smoking. It would be particularly appropriate for resources taken from this malignant industry to be used to give our children a healthier start in life.

Congress has an overwhelming interest in how the federal share of these dollars is used. They are Medicaid dollars. They should not be used for road repair or building maintenance. They should be used by the states to create a healthier future for all our citizens.

I thank the Senator from Pennsylvania for yielding this time.

Mr. SPECTER. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 3 minutes.

Mr. SPECTER. I yield myself 2 minutes.

Mr. President, in response to the comments by the distinguished majority leader on the obligation under this amendment to submit a plan, it is simply not so; States do not have to submit the plan to the Federal Government. All the States have to do is submit a ''report'' which shows how the funds ''have been spent.'' So there is no obligation to submit a plan.

When the distinguished majority leader talks about the temerity of the Federal Government, there is enough temerity on all sides to go around. But that is not the issue here. The States brought the lawsuits, because that is what the law requires, and the States have an obligation to abide by the decision of the Secretary of Health and Human Services, who makes the allocation.

Here we have litigation which has brought a settlement on tobacco-related causes. This is a modest approach on spending, indicating broad standards for State compliance, and only 50 percent related to tobacco. If no legislation were enacted on specifics, these funds would certainly be impressed with the trust.

When the majority leader talks about spending the funds for juvenile detention, that is very important. But that is simply not related to tobacco. When there is talk about using it for debt reduction of the States, that is very important. But it is not related to tobacco causes. These are funds produced from a tobacco settlement, and if the States do not use these funds in this way, my legal judgment is that these funds are impressed with a trust enforceable by any citizen of the State. But this is an accommodation which will allow a reasonable amount of the moneys to be used for tobacco-related purposes.

I reserve the remainder of my time.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I believe that this amendment is the worst of all worlds. It would require every State every year for 25 years to submit a plan about how it is going to spend its own money. What happens if a State legislature is not in session and the Secretary of HHS says, ''I don't think your plan meets my standards for tobacco cessation or health programs,'' and the State legislature is then in the position of losing Medicaid funds and having to call a special session to either change its programs to meet the requirements of the Secretary of HHS, or take the hit, or not serve its own people under Medicaid?

Mr. President, this is State money, it is not Federal money. There is no relationship between Medicaid in many of these State lawsuits.

I hope my colleagues will reject this amendment.

The PRESIDING OFFICER. The Senator from Pennsylvania has 1 minute.

Mr. SPECTER. Mr. President, in conclusion—the most popular words of any speech—this proposal is a very modest approach on a multibillion-dollar—$200 billion—settlement that has been brought by the chairmen and ranking members of the committees in the Senate charged with allocating funds for Health and Human Services. There is no plan which has to be submitted by the Governors. That is repeated again and again. All the Governors have to do is say how they will spend the money. I agree with the principle of leaving maximum flexibility to the States when we make allocations. But this is for a generalized purpose, and that is all we are asking for here. In light of the very substantial budgetary shortfalls, this money ought to be used, at least in part, 50 percent for the purposes of solving the problems caused by tobacco.

I yield the remainder of my time.

Mrs. HUTCHISON. Mr. President, I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas to lay on the table the amendment of the Senator from Pennsylvania. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 71, nays 29, as follows:

[Rollcall Vote No. 53 Leg.]

YEAS—71

Abraham	Fitzgerald	Lott
Allard	Frist	Lugar
Ashcroft	Gorton	Mack
Bayh	Graham	McConnell
Bennett	Gramm	Moynihan
Biden	Grams	Nickles
Bingaman	Grassley	Robb
Bond	Gregg	Roberts
Brownback	Hagel	Rockefeller
Bryan	Hatch	Roth
Bunning	Helms	Santorum
Burns	Hollings	Schumer
Campbell	Hutchinson	Sessions
Cochran	Hutchison	Shelby
Collins	Inhofe	Smith (NH)
Conrad	Inouye	Smith (OR)
Coverdell	Johnson	Snowe
Craig	Kerrey	Thomas
Crapo	Kerry	Thompson
Domenici	Kyl	Thurmond
Dorgan	Leahy	Torricelli
Edwards	Levin	Voinovich
Enzi	Lieberman	Warner
Feinstein	Lincoln	

NAYS—29

Akaka	Durbin	Murkowski
Baucus	Feingold	Murray
Boxer	Harkin	Reed
Breaux	Jeffords	Reid
Byrd	Kennedy	Sarbanes
Chafee	Kohl	Specter
Cleland	Landrieu	Stevens
Daschle	Lautenberg	Wellstone
DeWine	McCain	Wyden
Dodd	Mikulski	

The motion to lay on the table the amendment (No. 77) was agreed to.

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

Mrs. HUTCHISON. Mr. President, I move lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MURKOWSKI. 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. HARKIN. 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, it is not my intention to object, but there is a matter to clear up with the leadership, if I may have 30 seconds.

Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MURKOWSKI. My preference is to continue the quorum call. I understand it has been agreed to by my colleague.

The PRESIDING OFFICER. The clerk will continue to call the roll.

The legislative clerk continued with the call of the roll.

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

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

Under the previous order, the Senator from Texas, Mrs. HUTCHISON, is recognized to offer an amendment relative to Kosovo.

Mr. STEVENS. Mr. President, I ask unanimous consent that that matter be set aside and that the Senator from Arkansas be recognized for up to 15 minutes as in morning business.

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

Mrs. LINCOLN. I thank the Senator from Alaska.

NATIONAL WOMEN'S HISTORY MONTH

Mrs. LINCOLN. Mr. President, I rise today to pay tribute to National Women's History Month. I am proud to have the privilege of being the youngest woman ever elected to serve in this great body. And I want to use the occasion of Women's History Month to recognize just a few women from Arkansas who are paving roads for others to follow. I want to thank the many women who have blazed trails for years before me in order to secure a more prominent role for women of all professions, race, or faiths. In my home state of Arkansas, there are many such examples of women who deserve notoriety.

Judge Bernice Kizer of Fort Smith was one of the first 5 women to enroll in the University of Arkansas Law School. After a brief time in private practice, she was elected to represent Sebastian County in our state legislature. During her tenure in the Arkansas General Assembly, Judge Kizer had the distinction of being appointed the first woman chairman of any legislative committee and the first woman member of the Legislative Council. She served in that capacity for 14 years, and then returned home to Sebastian County to become the first woman elected a judge in my home state of Arkansas. Judge Kizer's accomplishments are even more monumental when you understand that over the course of her 33 year career in public service, she was elected by Arkansans on 10 separate occasions without ever accepting one single campaign contribution. At the age of 83, Judge Kizer still serves as an active member of the Sebastian County Democratic Party. Judge Kizer paved the way for so many Arkansas women who are now involved in either the legislative or judicial branches of our government. On the Arkansas Supreme Court, Justice Annabelle Clinton Imber holds one of the courts seven seats. Secretary of State Sharon Priest and State Treasurer Jimmie Lou Fisher serve as two of Arkansas' constitutional officers. Today, Arkansas has 20 women who serve in our legislature.

Community service and philanthropy are two vital components of life in many of the small rural communities in Arkansas and women have helped lead the way to improve our quality of life. My home State of Arkansas ranks third in the nation for philanthropic giving. The gifts given to the people of Arkansas have consisted of civic centers, art centers, and classroom equipment just to name a few by women like Helen Walton, Bess Stephens, and Bernice Jones. These gifts have had a significant impact on the lives of all of the areas residents. Whether it be insuring a warm meal to a hungry child in the early morning or after school activities, these women have looked beyond their own world and reached out to others in need. My mother has always told me that the kindest thing you can do for someone is to do something nice for their children. And as a young mother, believing that to be true, I am grateful to these and all community activists who take the time to care for the less fortunate.

Numerous Arkansas women have ventured into previously uncharted territories and established themselves as leaders in the business communities. These women, like Patti Upton, founder of Aromatique, Inc. have served as an inspiration to our state's growing number of young women who want to pursue business careers. Patti, who began this home fragrance endeavor in her kitchen in 1982, has turned a personal hobby into an inspiring professional growth opportunity. As the current President and CEO of what has become one of the nation's leading home fragrance companies, Patti has most recently begun to share her success with the rest of the State. Under her leadership, Aromatique created a line of products that include potpourri, candles, soaps and other products that are appropriately named ''The Natural State.'' All proceeds from this product line go to support the Arkansas Nature Conservancy and recently Aromatique surpassed the million dollar mark for contributions back to this civic organization.

Arkansas is the home of other women who have had dramatic effects in the business world. Diane Heuter is President and CEO of St. Vincent Health System and Julia Peck Mobley is CEO of Commercial National Bank in Texarkana.

Mr. President, I am so proud to be able to stand here today in this historic Chamber and proclaim my full support and participation in National Women's History Month. There is no doubt that women across this Nation have made very significant contributions to our lives. Sometimes those contributions are subtle and some times they are significant, but none the less worthy of recognition. Let us celebrate the invention of bullet proof vests, fire escapes, or wind shield wipers, all of which can be credited to women in our history, as ways to promote and encourage women of future generations to rise to the level of success that I have spoken of here today. From this great Chamber, to State legislative chambers, from the boardroom to the classroom, from corporate headquarters to local Head Start, women make a difference.

I am grateful for the opportunity afforded to me by those who have gone before me, and I hope in my tenure in the United States Senate to pave the way for many more young women from the great State of Arkansas.

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

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT FOR FISCAL YEAR 1999

The Senate continued with the consideration of the bill.

Mr. STEVENS. Mr. President, I ask unanimous consent that the matter of the order governing the amendment of the Senator from Texas be set aside so that I may offer an amendment.

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

AMENDMENT NO. 80

(Purpose: To defer section 8 assistance for expiring contracts until October 1, 1999)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 80.

Inset on page 43, after line 15:

''PUBLIC AND INDIAN HOUSING

''HOUSING CERTIFICATE FUND

''(DEFERRAL)

''Of the funds made available under this heading in Public Law 105–276 for use in connection with expiring or terminating section 8 contracts, $350,000,000 shall not become available until October 1, 1999.''.

On page 42, strike beginning with line 10 through the end of line 21.

Mr. STEVENS. Mr. President, this is an amendment that deals with the provision in the bill that was reported from the committee that deferred spending from the temporary assistance to needy families account.

This will defer, instead, monies from the section 8 fund of HUD. There is approximately $1.2 billion in that account. This will defer for 1 year the use of $350 million in that account. It replaces the TANF amendment in the bill. Under that amendment, we deferred until 2001 the availability of funds which are transferred to the States.

Because of the misunderstanding about that fund, I want to explain why we use that fund in the first place. I am once again alarmed over the misinformation that has been spread by some people in that entity, that agency, to try and make it look like somehow or other we took monies away from States or any specific State.

In the first place, these grant awards are made quarterly. Actual cash outlays are made, but they are not transferred to the States until the States make expenditures in their TANF programs, the Temporary Assistance to Needy Families. In other words, the States first make the payments, and we pay it back. Some people, in the House in particular, have said this a way that the States can use this money for a piggy bank. In no way can they take this money and put it into another bank account and draw interest on it if they comply with the law. That is one report I have heard—that we are preventing States from taking the money to put it into their own accounts.

We checked and we found that there was between $3 billion and $3.5 billion at the close of fiscal year 1998 in this fund. There are two quarters that have not even been distributed yet of this fiscal year 1999. And it is clear that the States have spent some money, and there is plenty of money to meet the States' expenditures and their requests for reimbursement of those expenditures. But this is not a fund that the States can come to willy-nilly and transfer the funds to their accounts.

Secondly, Mr. President, we deferred this money from obligation in this fiscal year—really until 2001, October 1, 2001.

The States would not—the bill that was reported from the committee—lose any of their funds. We, pursuant to the entitlement that was authorized, agreed that Federal funds, taxpayers' funds, in the amount of $16.5 billion, from 1997 through 2002, would be placed in this account, to be available to reimburse States for the expenditures they made for Assistance to Needy Families.

Nothing in what the Appropriations Committee did harmed that program at all. But because by October 1 another $16.5 billion would have been added to $3 billion to $3.5 billion in that account—and there has never been a drawdown at the rate that would make those funds needed within that period of time.

This is not a rainy day fund. We have been told that some people have said that States take these monies and put them in a rainy day fund to use at a later date. But the law says they can only get them to reimburse expenditures. If the administration is allowing this fund to be used as a rainy day account or a piggy bank account, it is wrong.

We have had so many calls from so many States, including my own. And I see the Senator from New York is here, and I know that they have been besieged because of their population base. Of course, they are eligible for more money from this account, more than anyone other than California. But it depends on how much they spend before they can get it back.

We made the decision to offset this bill. This is the first time we have offset totally a supplemental emergency bill. I have said to our committee, we ought to offset emergency funds with prior appropriated emergency funds and nonemergency funds with nonemergency prior appropriated funds. I think we are going to have a little discussion about that here on the floor.

But clearly what we have done, Mr. President, is we have used this bill to reprogram prior appropriated funds. These funds that were appropriated to the TANF account are sitting there waiting for the States to spend money and then come and ask for it to be repaid. The process is so rapid that the administration has not paid the first two quarters of this year yet. So this is not something we have interfered with by deferring money until the second fiscal year. Because, as I said, this account would get $16.5 billion credited to it on October 1.

What we have done is, in order to avoid this controversy—and we do not need a controversy on this bill. We need to get it done. This bill, in my opinion, is a very important bill. It will provide money for assistance because of a great natural disaster in a neighboring country in this hemisphere. The President asked us to declare that an emergency. We have taken the declaration of emergency through as far as the outlay categories are concerned, because it is very difficult to score under the budget process outlays that come from emergency accounts.

We have not taken an emergency declaration through on those things that we believe are nonemergency in terms of the authorization process. So by that I mean, I fail to understand how we should extend the concept of emergency appropriations to natural disasters off our shores. We should be able to find the money, if we want to be good humanitarian members of this hemisphere, to assist our neighbors.

I believe we should assist them. But I do not believe we should use the laws that were intended to demand taxpayers' funds immediately to meet natural disasters or declared emergencies by the President of the United States within the boundaries of our United States.

So Mr. President, I offer this amendment in the spirit of compromise, to try and take away this battle that I saw coming over the use of TANF funds. No one supports the concepts of this Temporary Assistance to Needy Families. We all know it replaced the old Aid to Families with Dependent Children, the AFDC program, that assisted so many States, including mine for so many years.

But this now is a block grant program that works in conjunction with the welfare-to-work concepts, and that is very vital for the States. We know that. And I think the fear that was engendered in those States that somehow or other we might not keep the commitment that was made, that if they make those expenditures we would repay them according to the formula under the law that was passed in 1996, the Welfare Reform Act, is unfortunate and wrong.

I hope that someone in the administration is listening. One of these days I will find some way to tweak the nose of the people who keep doing this, because they did it in the terms of border guards last week, and now they are doing it in terms of the States themselves in terms of the comments that have been made that somehow or other we were taking money that the States were entitled to; we were deferring money that they were entitled to,

which they would never get under the process of the law anyway until the time we deferred the expenditures.

As a matter of fact, some people on this side of the aisle have argued with me to say this is not a full offset because I know that I am offsetting the expenditures under this bill against a fund that would never be expended this year. That is partially true. That is why we have declared an emergency, as far as the outlays, and we have admitted that, and we have said that is the only way we can do it. But we need to do it. I hope, in particular, my new friend from New York will understand that we are doing this to meet his objections and others, and we do so in the spirit of compromise.

Thank you, Mr. President.

Mr. SCHUMER addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Thank you, Mr. President.

First, I want to, on behalf of Senator MOYNIHAN and myself, thank Chairman STEVENS, as well as Senator BYRD, for their assistance in removing the $350 million offset from the TANF, Temporary Assistance for Needy Families, account, which would have deferred the funds until 2002.

Mr. President, I and many others in New York feared that this offset set us off on the wrong course, that it would run counter to the intention of the welfare reform bill which allowed States to set aside TANF funds for use at a later date when welfare rolls would rise, such as during a future recession.

My State, as the chairman knows, was particularly affected. The State was the source of nearly a quarter, about $80 million, of the $350 million that was offset. So I am pleased that the alternative offset would shift some HUD funds from one fiscal year to the next, funds that never would have been used. We have checked with both the administration as well as our side on Housing and on Banking and on Appropriations, and they agree with that.

I say to the chairman that I appreciate very much the spirit of compromise in which this was offered. I understand his view and I will bring that message back to our State. The people of New York will now be breathing a sigh of relief that this has been replaced.

I also thank the Senator from Pennsylvania, Mr. SANTORUM, who worked with me on this. He found his State in a similar position as ours. At least for my first foray into the Senate legislative process, it has been a bipartisan and productive effort. For that, I very much thank the chairman for his understanding of our needs and yield back the remainder of my time.

Mr. STEVENS. Mr. President, I am going to ask for adoption of the amendment but I will not move to reconsider because there may be some who want to discuss this, too. I will make a motion to reconsider this later today. May I reserve the right to make that later today?

The PRESIDING OFFICER. That motion can be made today or any of the next 2 following days.

Mr. STEVENS. I shall make it this afternoon, and I ask for the adoption of the amendment.

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

The amendment (No. 80) was agreed to.

AMENDMENT NO. 81

(Purpose: To set forth restrictions on deployment of United States Armed Forces in Kosovo)

Mrs. HUTCHISON. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON] proposes an amendment numbered 81.

Mr. STEVENS. 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:

On page 58, between lines 15 and 16, insert the following:

TITLE ____ RESTRICTIONS ON DEPLOYMENT OF UNITED STATES ARMED FORCES IN KOSOVO

SEC. ___01. SHORT TITLE.

This title may be cited as the ''_____ Act of 1999''.

SEC. ___02. DEFINITION.

In this title, the term ''Yugoslavia'' means the so-called Federal Republic of Yugoslavia (Serbia and Montenegro).

SEC. ___03. FUNDING LIMITATION.

(a) LIMITATION.—None of the funds appropriated or otherwise made available to the Department of Defense, including funds appropriated for fiscal year 1999 and prior fiscal years, may be obligated or expended for any deployment of ground forces of the Armed Forces of the United States to Kosovo unless and until—

(1) the parties to the conflict in Kosovo have signed an agreement for the establishment of peace in Kosovo;

(2) the President has transmitted to Congress the report provided for under section 8115 of Public Law 105–262 (112 Stat. 2327); and

(3) the President has transmitted to the Speaker of the House of Representatives and the President pro tempore of the Senate a report containing—

(A) a certification—

(i) that deployment of the Armed Forces of the United States to Kosovo is in the national security interests of the United States;

(ii) that—

(I) the President will submit to Congress an amended budget for the Department of Defense for fiscal year 2000 not later than 60 days after the commencement of the deployment of the Armed Forces of the United States to Kosovo that includes an amount sufficient for such deployment; and

(II) such amended budget will provide for an increase in the total amount for the major functional budget category 050 (relating to National Defense) for fiscal year 2000 by at least the total amount proposed for the deployment of the Armed Forces of the United States to Kosovo (as compared to the amount provided for fiscal year 2000 for major functional budget category 050 (relating to National Defense) in the budget that the President submitted to Congress February 1, 1999); and

(iii) that—

(I) not later than 120 days after the commencement of the deployment of the Armed Forces of the United States to Kosovo, forces of the Armed Forces of the United States will be withdrawn from on-going military operations in locations where maintaining the current level of the Armed Forces of the United States (as of the date of certification) is no longer considered vital to the national security interests of the United States; and

(II) each such withdrawal will be undertaken only after consultation with the Majority Leader of the Senate, the Minority Leader of the Senate, the Speaker of the House of Representatives, and the Minority Leader of the House of Representatives;

(B) an explanation of the reasons why the deployment of the Armed Forces of the United States to Kosovo is in the national security interests of the United States;

(C) the total number of the United States military personnel that are to be deployed in Kosovo and the number of personnel to be committed to the direct support of the international peacekeeping operation in Kosovo, including ground troops, air support, logistics support, and intelligence support;

(D) the percentage that the total number of personnel of the United States Armed Forces specified in subparagraph (C) bears to the total number of the military personnel of all NATO nations participating in the international peacekeeping operation in Kosovo;

(E) a description of the responsibilities of the United States military force participating in the international peacekeeping operation to enforce any provision of the Kosovo peace agreement; and

(F) a clear identification of the benchmarks for the withdrawal of the Armed Forces of the United States from Kosovo, together with a description of those benchmarks and the estimated dates by which those benchmarks can and will be achieved.

(b) CONSULTATION.—

(1) IN GENERAL.—Prior to the conduct of any air operations by the Armed Forces of the United States against Yugoslavia, the President shall consult with the joint congressional leadership and the chairmen and ranking minority members of the appropriate congressional committees with respect to those operations.

(2) DEFINITIONS.—In this subsection:

(A) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means—

(i) the Committee on Appropriations, the Committee on Armed Services, the Committee on International Relations, and the Permanent Select Committee on Intelligence of the House of Representatives; and

(ii) the Committee on Appropriations, the Committee on Armed Services, the Committee on Foreign Relations, and the Select Committee on Intelligence of the Senate.

(B) JOINT CONGRESSIONAL LEADERSHIP.—The term ''joint congressional leadership'' means—

(i) the Speaker of the House of Representatives and the Majority Leader and the Minority Leader of the House of Representatives; and

(ii) the Majority Leader and the Minority Leader of the Senate.

SEC. ___04. REPORT ON PROGRESS TOWARD MEETING BENCHMARKS.

Thirty days after the date of enactment of this Act, and every 60 days thereafter, the President shall submit to Congress a detailed report on the benchmarks that are established to measure progress and determine the withdrawal of the Armed Forces of the United States from Kosovo. Each report shall include—

(1) a detailed description of the benchmarks for the withdrawal of the Armed Forces from Kosovo;

(2) the objective criteria for evaluating successful achievement of the benchmarks;

(3) an analysis of the progress made in achieving the benchmarks;

(4) a comparison of the current status on achieving the benchmarks with the progress described in the last report submitted under this section;

(5) the specific responsibilities assigned to the implementation force in assisting in the achievement of the benchmarks;

(6) the estimated timetable for achieving the benchmarks; and

(7) the status of plans and preparations for withdrawal of the implementing force once the objective criteria for achieving the benchmarks have been met.

SEC. ___05. STATUTORY CONSTRUCTION.

Nothing in this title restricts the authority of the President to protect the lives of United States citizens.

Mr. STEVENS. Mr. President, I ask unanimous consent the amendment now be laid aside and no call for regular order, except one made by myself or the mover of the amendment, the Senator from Texas, serve to bring back the pending amendment.

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

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENTS NOS. 82 THROUGH 88, EN BLOC

Mr. STEVENS. Mr. President, I have a package of amendments that have been cleared and I would like to say for the record what they are. They are:

An amendment by Senator MCCAIN to extend the Aviation Insurance Program through May 31, 1999.

An amendment by Senator GRASSLEY providing $1.4 million to expedite adjudication of civil monetary penalties by the Health and Human Services Appeal Board. It also provides for an offset for that amount of $1.4 million.

We have Senator SHELBY's amendment which makes a technical correction to title IV.

We have an amendment by Senator BYRD making a technical correction to the Emergency Steel Loan Guarantee Program in the bill.

An amendment by Senator FRIST and Senator THOMPSON providing $3.2 million for repairs to Jackson, TN, Army aviation facility damaged by a tornado in January. It also provides for an offset in the same amount.

An amendment by myself for a technical correction to the current year, 1999's Commerce-Justice-State bill, and provides for rules on the taking of Beluga whales.

I send these amendments to the desk and ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for himself, Mr. MCCAIN, Mr. GRASSLEY, Mr. SHELBY, Mr. BYRD, Mr. FRIST and Mr. THOMPSON, proposes amendments numbered 82 through 88, en bloc, as follows:

AMENDMENT NO. 82

(Purpose: To extend the aviation insurance program through May 31, 1999)

At the appropriate place, insert the following:

SEC. 17. EXTENSION OF AVIATION INSURANCE PROGRAM.

Section 44310 of title 49, United States Code, is amended by striking ''March 31, 1999.'' and inserting ''May 31, 1999.''.

AMENDMENT NO. 83

(Purpose: Expediting adjudication of civil monetary penalties by the Department of Health and Human Services Appeals Board)

On page 29, insert after line 10:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF THE SECRETARY

GENERAL DEPARTMENTAL MANAGEMENT

For an additional amount for ''general departmental management'', $1,400,000, to reduce the backlog of pending nursing home appeals before the Departmental Appeals Board.

On page 42, line 8, strike $3,116,076,000 and insert $3,114,676,000

On page 42, line 9, strike $164,933,000 and insert $163,533,000.

Mr. GRASSLEY. Mr. President, I am offering this amendment to speed up adjudication, by the appeals board of the Department of Health and Human Services, of appeals from nursing facilities of civil monetary penalties levied by the Health Care Financing Administration (HCFA) for violations of standards established pursuant to the Nursing Home Reform Act of 1987. Currently, there is a substantial backlog of some 701 such cases. Delay in final adjudication of such cases subverts the purpose and effect of civil monetary penalties, delaying corrective action, and improvements in the quality of care offered by nursing facilities. Delays in adjudication of these cases also burdens nursing facilities through additional legal fees and the perpetuation of uncertainty caused by unresolved disputes.

The number of such cases filed each year by nursing facilities has increased each year since 1995, the year when regulations for the Nursing Home Reform Act's enforcement standards went into effect. Currently, as I noted earlier in my statement, there are 701 such cases pending.

Mr. President, the steady increase in appeals of civil monetary penalties since 1995 shows the effect of increased use, by the States and HCFA, of the enforcement regulations which went into effect in 1995. Nevertheless, in hearings I held in the Special Committee on Aging last July, the General Accounting Office reported that nursing facilities providing poor quality of care regularly escaped sanctions which could cause care to be improved. The pattern seemed to be that a facility would be sanctioned for poor quality of care, be required to attest in writing through a plan of correction that steps had been taken to improve care, and then be found deficient on the next visit from State officials. This pattern often continued for long periods of time. And when sanctions such as civil monetary penalties were levied by HCFA, the sanctioned facilities would appeal, causing lengthy delays in final resolution of the case.

One week before my July hearings, President Clinton launched a variety of new initiatives designed to improve the quality of care in nursing facilities. Among those new initiatives was one designed to eliminate paper compliance with quality standards and to proceed more quickly to sanctions for those homes with a history of poor care.

The upshot of oversight by the Special Committee on Aging and the Presidential initiatives is that there has been a substantial increase thus far in 1999 of appeals of civil monetary penalties by nursing facilities.

Certainly, facilities have the right to appeal sanctions levied by HCFA. But it is also important that appeals be heard and resolved in a reasonable amount of time. Delay subverts improvement in the quality of care in nursing facilities as real deficiencies go uncorrected. Delay also slows the development of precedents which would clarify outstanding issues. Slow development of such precedents encourages facilities and their legal representatives to file appeals because guidance as to the worthiness of an appeal is lacking. And, as the body of precedents becomes more complete, adjudication of cases becomes speedier.

The root problem has been that the departmental appeals board does not have sufficient resources to keep up with the increase in new cases, to say nothing of working off the current backlog of cases. I am given to understand that, at the present time about 25 new cases are filed with the appeals board each week. As will be clear from the table I am attaching to my statement, the number of cases decided each year has averaged around 23 for the last 3 years. Clearly, the board is swamped and needs help.

The President's budget for fiscal year 2000 proposes $2.8 million for the board. Were the Congress to provide those funds, it will certainly take time for the appeals board to gear up and begin to speed up adjudication of appeals.We can't wait to begin addressing this problem, Mr. President. The amendment I offer would provide $1.4 million to be made available through the supplemental appropriation we are now considering. I have not proposed to provide the full $2.8 million the President's budget proposes for the next fiscal year because the appeals board could not effectively spend that amount in what remains of the fiscal year. Therefore, I have essentially prorated that amount over the time remaining in this fiscal year.

AMENDMENT NO. 84

At the appropriate place in the bill, insert:

SEC. . TITLE 49 RECODIFICATION CORRECTION.—Effective December 31, 1998, section 4(k) of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1370), as amended by section 7(a)(3)(D) of the Act of October 31, 1994 (Public Law 103–429, 108 Stat. 4329), is repealed.

AMENDMENT NO. 85

(Purpose: To make a technical correction)

On page 16, strike beginning with line 12 through page 23, line 8, and insert the following:

EMERGENCY STEEL LOAN GUARANTEE PROGRAM. (a) SHORT TITLE.—This section may be cited as the ''Emergency Steel Loan Guarantee Act of 1999''.

(b) CONGRESSIONAL FINDINGS.—Congress finds that—

(1) the United States steel industry has been severely harmed by a record surge of more than 40,000,000 tons of steel imports into the United States in 1998, caused by the world financial crisis;

(2) this surge in imports resulted in the loss of more than 10,000 steel worker jobs in 1998, and was the imminent cause of 3 bankruptcies by medium-sized steel companies, Acme Steel, Laclede Steel, and Geneva Steel;

(3) the crisis also forced almost all United States steel companies into—

(A) reduced volume, lower prices, and financial losses; and

(B) an inability to obtain credit for continued operations and reinvestment in facilities;

(4) the crisis also has affected the willingness of private banks and investment institutions to make loans to the U.S. steel industry for continued operation and reinvestment in facilities;

(5) these steel bankruptcies, job losses, and financial losses are also having serious negative effects on the tax base of cities, counties, and States, and on the essential health, education, and municipal services that these government entities provide to their citizens; and

(6) a strong steel industry is necessary to the adequate defense preparedness of the United States in order to have sufficient steel available to build the ships, tanks, planes, and armaments necessary for the national defense.

(c) DEFINITIONS.—For purposes of this section—

(1) the term ''Board'' means the Loan Guarantee Board established under subsection (e);

(2) the term ''Program'' means the Emergency Steel Guaranteed Loan Program established under subsection (d); and

(3) the term ''qualified steel company'' means any company that—

(A) is incorporated under the laws of any State;

(B) is engaged in the production and manufacture of a product defined by the American Iron and Steel Institute as a basic steel mill product, including ingots, slab and billets, plates, flat-rolled steel, sections and structural products, bars, rail type products, pipe and tube, and wire rod; and

(C) has experienced layoffs, production losses, or financial losses since the beginning of the steel import crisis, after January 1, 1998.

(d) ESTABLISHMENT OF EMERGENCY STEEL GUARANTEED LOAN PROGRAM.—There is established the Emergency Steel Guaranteed Loan Program, to be administered by the Board, the purpose of which is to provide loan guarantees to qualified steel companies in accordance with this section.

(e) LOAN GUARANTEE BOARD MEMBERSHIP.—There is established a Loan Guarantee Board, which shall be composed of—

(1) the Secretary of Commerce, who shall serve as Chairman of the Board;

(2) the Secretary of Labor; and

(3) the Secretary of the Treasury.

(f) LOAN GUARANTEE PROGRAM.—

(1) AUTHORITY.—The Program may guarantee loans provided to qualified steel companies by private banking and investment institutions in accordance with the procedures, rules, and regulations established by the Board.

(2) TOTAL GUARANTEE LIMIT.—The aggregate amount of loans guaranteed and outstanding at any 1 time under this section may not exceed $1,000,000,000.

(3) INDIVIDUAL GUARANTEE LIMIT.—The aggregate amount of loans guaranteed under this section with respect to a single qualified steel company may not exceed $250,000,000.

(4) MINIMUM GUARANTEE AMOUNT.—No single loan in an amount that is less than $25,000,000 may be guaranteed under this section.

(5) TIMELINES.—The Board shall approve or deny each application for a guarantee under this section as soon as possible after receipt of such application.

(6) ADDITIONAL COSTS.—For the additional cost of the loans guaranteed under this subsection, including the costs of modifying the loans as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661a), there is appropriated $140,000,000 to remain available until expended.

(g) REQUIREMENTS FOR LOAN GUARANTEES.—A loan guarantee may be issued under this section upon application to the Board by a qualified steel company pursuant to an agreement to provide a loan to that qualified steel company by a private bank or investment company, if the Board determines that—

(1) credit is not otherwise available to that company under reasonable terms or conditions sufficient to meet its financing needs, as reflected in the financial and business plans of that company;

(2) the prospective earning power of that company, together with the character and value of the security pledged, furnish reasonable assurance of repayment of the loan to be guaranteed in accordance with its terms;

(3) the loan to be guaranteed bears interest at a rate determined by the Board to be reasonable, taking into account the current average yield on outstanding obligations of the United States with remaining periods of maturity comparable to the maturity of such loan; and

(4) the company has agreed to an audit by the General Accounting Office, prior to the issuance of the loan guarantee and annually while any such guaranteed loan is outstanding.

(h) TERMS AND CONDITIONS OF LOAN GUARANTEES.—

(1) LOAN DURATION.—All loans guaranteed under this section shall be payable in full not later than December 31, 2005, and the terms and conditions of each such loan shall provide that the loan may not be amended, or any provision thereof waived, without the consent of the Board.

(2) LOAN SECURITY.—Any commitment to issue a loan guarantee under this section shall contain such affirmative and negative covenants and other protective provisions that the Board determines are appropriate. The Board shall require security for the loans to be guaranteed under this section at the time at which the commitment is made.

(3) FEES.—A qualified steel company receiving a guarantee under this section shall pay a fee in an amount equal to 0.5 percent of the outstanding principal balance of the guaranteed loan to the Department of the Treasury.

(i) REPORTS TO CONGRESS.—The Secretary of Commerce shall submit to Congress annually, a full report of the activities of the Board under this section during fiscal years 1999 and 2000, and annually thereafter, during such period as any loan guaranteed under this section is outstanding.

(j) SALARIES AND ADMINISTRATIVE EXPENSES.—For necessary expenses to administer the Program, $5,000,000 is appropriated to the Department of Commerce, to remain available until expended, which may be transferred to the Office of the Assistant Secretary for Trade Development of the International Trade Administration.

(k) TERMINATION OF GUARANTEE AUTHORITY.—The authority of the Board to make commitments to guarantee any loan under this section shall terminate on December 31, 2001.

(*l*) REGULATORY ACTION.—The Board shall issue such final procedures, rules, and regulations as may be necessary to carry out this section not later than 60 days after the date of enactment of this Act.

(m) EMERGENCY DESIGNATION.—The entire amount made available to carry out this section—

(1) is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(A)); and

(2) shall be available only to the extent that an official budget request that includes designation of the entire amount of the request as an emergency requirement (as defined in the Balanced Budget and Emergency Deficit Control Act of 1985) is transmitted by the President to Congress.

AMENDMENT NO. 86

(Purpose: To increase, with a rescission, the supplemental appropriations for fiscal year 1999 for military construction for the Army National Guard)

On page 30, line 1, strike ''$11,300,000'' and insert ''$14,500,000''.

On page 43, line 12, strike ''$11,300,000'' and insert ''$14,500,000''.

AMENDMENT NO. 87

At the appropriate place in the bill, insert:

SEC. . Notwithstanding any other provision of law, the taking of a Cook Inlet beluga whale under the exemption provided in section 101(b) of the Marine Mammal Protection Act (16 U.S.C. 1371(a)) between the date of the enactment of this Act and October 1, 2000 shall be considered a violation of such Act unless such taking occurs pursuant to a cooperative agreement between the National Marine Fisheries Service and Cook Inlet Marine Mammal Commission.

AMENDMENT NO. 88

At the appropriate place in the bill, insert:

SEC. . Funds provided in the Department of Commerce, Justice and State, the Judiciary, and Related Agencies Appropriations Act, 1999 (P.L. 105–277, Division A, Section 101(b)) for the construction of correctional facility in Barrow, Alaska shall be made available to the North Slope Borough.

The PRESIDING OFFICER. Without objection, the amendments are agreed to en bloc.

The amendments (Nos. 82 through 88) were agreed to.

Mr. STEVENS. Mr. President, the Senator from Arkansas, Mr. HUTCHINSON, is here and he will offer an amendment. After he has presented his amendment, I state to the Senator it will be my intention to move to table his amendment.

I ask unanimous consent that the vote on that motion to table and the vote on the motion to table the Harkin amendment occur at 2:30.

Mr. HARKIN. Torricelli.

Mr. STEVENS. Torricelli/Harkin amendment occur at 2:30.

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

Mr. STEVENS. I thank the Chair.

Mr. HUTCHINSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

AMENDMENT NO. 89

(Purpose: To require prior congressional approval before the United States supports the admission of the People's Republic of China into the World Trade Organization)

Mr. HUTCHINSON. I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Arkansas [Mr. HUTCHINSON] proposes an amendment numbered 89.

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

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

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. ___. PRIOR CONGRESSIONAL APPROVAL FOR SUPPORTING ADMISSION OF CHINA INTO THE WTO.

(a) IN GENERAL.—Notwithstanding any other provision of law, the United States may not support the admission of the People's Republic of China as a member of the World Trade Organization unless a provision of law is passed by both Houses of Congress and enacted into law after the enactment of this Act that specifically allows the United States to support such admission.

(b) PROCEDURES FOR CONGRESSIONAL APPROVAL OF UNITED STATES SUPPORT FOR ADMISSION OF CHINA INTO THE WTO.—

(1) NOTIFICATION OF CONGRESS.—The President shall notify the Congress in writing if the President determines that the United States should support the admission of the People's Republic of China into the World Trade Organization.

(2) SUPPORT OF CHINA'S ADMISSION INTO THE WTO.—The United States may support the admission of the People's Republic of China into the World Trade Organization if a joint resolution is enacted into law under subsection (c) and the Congress adopts and transmits the joint resolution to the President before the end of the 90-day period (excluding any day described in section 154(b) of the Trade Act of 1974), beginning on the date on which the Congress receives the notification referred to in paragraph (1).

(c) JOINT RESOLUTION.—

(1) JOINT RESOLUTION.—For purposes of this section, the term ''joint resolution'' means only a joint resolution of the 2 Houses of Congress, the matter after the resolving clause of which is as follows: ''That the Congress approves the support of the United States for the admission of the People's Republic of China into the World Trade Organization.''.

(2) PROCEDURES.—

(A) IN GENERAL.—A joint resolution may be introduced at any time on or after the date on which the Congress receives the notification referred to in subsection (b)(1), and before the end of the 90-day period referred to in subsection (b)(2). A joint resolution may be introduced in either House of the Congress by any member of such House.

(B) APPLICATION OF SECTION 152.—Subject to the provisions of this subsection, the provisions of subsections (b), (d), (e), and (f) of section 152 of the Trade Act of 1974 (19 U.S.C. 2192(b), (d), (e), and (f)) apply to a joint resolution under this section to the same extent as such provisions apply to resolutions under section 152.

(C) DISCHARGE OF COMMITTEE.—If the committee of either House to which a joint resolution has been referred has not reported it by the close of the 45th day after its introduction (excluding any day described in section 154(b) of the Trade Act of 1974), such committee shall be automatically discharged from further consideration of the joint resolution and it shall be placed on the appropriate calendar.

(D) CONSIDERATION BY APPROPRIATE COMMITTEE.—It is not in order for—

(i) the Senate to consider any joint resolution unless it has been reported by the Committee on Finance or the committee has been discharged under subparagraph (C); or

(ii) the House of Representatives to consider any joint resolution unless it has been reported by the Committee on Ways and Means or the committee has been discharged under subparagraph (C).

(E) CONSIDERATION IN THE HOUSE.—A motion in the House of Representatives to proceed to the consideration of a joint resolution may only be made on the second legislative day after the calendar day on which the Member making the motion announces to the House his or her intention to do so.

(3) CONSIDERATION OF SECOND RESOLUTION NOT IN ORDER.—It shall not be in order in either the House of Representatives or the Senate to consider a joint resolution (other than a joint resolution received from the other House), if that House has previously adopted a joint resolution under this section.

Mr. HARKIN. Mr. President, parliamentary inquiry, if I might.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. I am just trying to find out from the Senator, is there a time allotment or not?

Mr. STEVENS. When the Senator finishes, I will make a motion to table. It should be about 1 o'clock.

Mr. HARKIN. I just didn't know——

Mr. STEVENS. Mr. President, we have not asked for a time limitation on the Senator making his presentation, but he knows that as soon as he finishes, I will make a motion to table.

Mr. HARKIN. The Senator is going to table both at 2:30?

Mr. STEVENS. Mr. President, I will make a motion to table the amendment of the Senator from Arkansas, and after the Senator from Iowa, I will make a motion, but I got unanimous consent that those votes occur at 2:30.

Mr. HARKIN. That is fine with me. I just wanted to make sure.

Mr. BAUCUS. Mr. President, who has the floor?

Mr. STEVENS. The Senator from Arkansas has the floor.

The PRESIDING OFFICER. The Senator from Arkansas has the floor.

Mr. BAUCUS. Mr. President, will the Senator yield for a question—for a parliamentary inquiry?

Mr. HUTCHINSON. I will be glad to yield.

Mr. BAUCUS. I understand the distinguished Senator from Alaska is saying he is going to move to table. I would like to speak on the amendment, but the Senator is moving to table as soon as the Senator is finished.

Mr. STEVENS. Mr. President, I would be pleased if the Senator would agree to try to reach a time agreement on that, because we have other Senators wishing to offer amendments this afternoon also.

Mr. President, may I ask the Senator, first, that the Senator yield to me? I apologize.

Mr. HUTCHINSON. I will be glad to yield to the distinguished chairman.

Mr. STEVENS. How much time would the Senator like to have?

Mr. HUTCHINSON. I think for my presentation I probably only need 15 minutes. If there are those who speak against the amendment, I would like to yield proportionally then.

Mr. STEVENS. Mr. President, if I still have the floor, how much time does the Senator from Montana seek?

Mr. BAUCUS. I was thinking of 10, 15 minutes.

Mr. STEVENS. Could we have an agreement that there be 30 minutes on this amendment? Is the Senator from Montana speaking against the amendment?

Mr. BAUCUS. I am speaking against the amendment.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. Mr. President, reserving the right to object——

Mr. STEVENS. I am seeking a limitation of 30 minutes on the amendment, that the time following that time to be—I will make a motion to table, only a motion to table be in order.

The PRESIDING OFFICER. Is there objection? Without objection——

Mr. STEVENS. Mr. President, I am informed that Senators ROTH and MOYNIHAN wish to speak, and I ask unanimous consent that the time be expanded to 40 minutes to be followed only by a motion to table offered by me.

Mr. HUTCHINSON. Reserving the right to object.

Mr. STEVENS. Forty-five minutes. The Senator wants to close.

Mr. HUTCHINSON. I suspect the others the Senator mentioned are going to speak in opposition. There are some who might want to speak in favor. If we are going to extend the time afforded Senators who want to speak against, I think we might have trouble extending the time with that restriction.

Mr. STEVENS. Mr. President, I do desire to limit the time if possible, so we can have a vote when the Senate comes back out of that conference.

Could we agree to 30 minutes on a side? Is there objection to 30 minutes on a side? I renew my request——

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

Mr. STEVENS. The agreement then is 1 hour equally divided?

The PRESIDING OFFICER. That is correct.

Mr. STEVENS. I thank the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. HUTCHINSON. I thank the Chair.

This is a very straightforward amendment that simply says that before China can be admitted to the World Trade Organization, there will have to be a joint resolution passed by the Congress supporting that accession of China to the World Trade Organization.

It is very simple. It is simply saying we should have a voice in this. We should not have the administration arbitrarily and unilaterally making a very, very significant and major decision without the input of the U.S. Congress and this body. It does not prejudge what should happen. It does not say whether China should be in or not. There may be very compelling arguments that could be presented in such a debate. But it does say that before China is admitted to the World Trade Organization, every Senator in this body ought to have an opportunity to look at the evidence and have a say in the outcome of that debate. That is why we need this amendment, because Congress needs to, once again, assert its constitutional responsibility in the area of foreign commerce.

I believe we must do it now for a couple of reasons. It is the only opportunity we are going to have before the recess, and our only opportunity before Zhu Rongji visits this Nation next month. He will come during our Easter recess. So, if Congress is going to have any kind of statement on this, if we are going to be able to take any kind of action on this, we must take it now.

I know some of my colleagues will say this should have gone through committee. In an ideal world I would agree. It is very straightforward. I do not think it would require a great deal of debate, as to whether someone is for it or against it, but ideally that is where it should have gone. But, once again, the stream of negotiations that have taken place in recent weeks between our country and the Chinese Government, with our officials going to China—Deputy Treasury Secretary Larry Summers, Secretary of State Albright, U.S. Trade Representative Charlene Barshefsky have all been making repeated trips to China—negotiating, obviously; attempting to broker a deal on the World Trade Organization accession of China.

If we wait for an announcement by the administration that a deal has been reached, an announcement by the administration that the outlines of an agreement have been reached, we will make China's membership in the WTO a fait accompli. Any effort to stop it after the fact, after the negotiations are completed and after an agreement has been announced, I think will be too late for this body to really make a difference.

The amendment is, as I said, very straightforward. It would require a joint resolution to be passed before the United States could support admission of China into the WTO. Again, it does not preclude our support for China's entry. It simply sends a clear statement that Congress should be involved in the process of deciding U.S. support for China's accession into the WTO. The administration should not make any hasty deals with China. We must give careful consideration to the timing as well as to the consequences of Chinese accession. Congress must be thoroughly involved in that debate.

We cannot negotiate a trade deal with the most populous nation in the world, and, as we hear so often, the largest market in the world, in a vacuum. There are certain facts that we must face; there is a political environment in which all of these negotiations are occurring. The Chinese have used espionage to obtain important nuclear secrets from the United States. That is a matter that must be fully investigated. I believe it will be. I believe the appropriate oversight committees are moving expeditiously to investigate. But it certainly is not going to happen before we go out on the Easter recess. We may have hearings next week, but we will not see the end of this, we will not have all the facts on the table, before the Easter recess and before Zhu Rongji visits this country.

Another fact that faces us is our trade deficit with the Chinese is at an alarming all-time high of $56.9 billion for 1998. It is rising exponentially every year. That reality ought to cause us to pause before we see the administration rush into a WTO deal. The Chinese continue to keep many of their markets closed, particularly to our agricultural sector, our farmers, who are in such crisis.

The Chinese have signed and blatantly disregarded the International Covenant on Civil and Political Rights and have engaged in a widespread crackdown on prodemocracy activists in China, effectively silencing all political dissent. We cannot give WTO membership in a vacuum, ignoring all other realities that face us. The 1999 State Department report on China, released in the last few weeks, demonstrably proves China's ignoring of the very covenant on civil and political rights that they signed last year. If we cannot trust them to live up to a human rights covenant that they signed, how can we assume they are going to live according to the rules and the obligations of the World Trade Organization? There is an issue of trust. They have not justified the trust we would show in placing them in the World Trade Organization.

Article I of the Constitution gives Congress express power over foreign commerce. There is no question but that this is our right. There is no question in this Senator's mind that it is our responsibility to step forward and say: WTO membership for China will not be granted without a debate in the House and Senate and a joint resolution.

There are serious questions that the House and the Senate need to address. For us to sit back and go off on our Easter vacation, to go off on recess, to hold our town meetings or to take our trips around the world, and to have been silent on this issue, I think, at this time, will be indefensible. I suspect there will be some kind of announcement on the U.S. position on China's membership in the WTO while we are gone. Then we would never have had the opportunity to debate very important questions.

I do not have all of the answers to these questions, but I know they are serious questions and I know the Senator from Montana, the Senator from Alabama, who was on the floor just a moment ago, and myself ought to have a right, before we have the United States taking a position on WTO membership, to debate that on the floor of the Senate, to thoroughly examine the questions that have not yet been answered.

One question I would have is this: Are we lowering the WTO bar for China, to rush them into membership?

Since 1995, four countries have completed negotiations on accession protocol: Ecuador, Mongolia, Bulgaria, and Panama. All four of these nations were required to eliminate, on the date of accession or with very short transitions, trade practices that were incompatible with WTO rules. That has been the standard. Since 1995 the four nations that have sought to enter the WTO have been required to eliminate their trade practices that were incompatible with WTO rules. But China has firmly and continuously and repeatedly said they want a different standard. They want a longer transition period. They do not want to meet those WTO rules at the time of or soon after their accession to the WTO. That is a question I believe this body deserves the opportunity to investigate and debate thoroughly before we announce a national position regarding China's admission.

Another question I think is a serious question for debate: Are we allowing China into the WTO before they have made the kind of market reforms to bring them into conformity with WTO standards? The administration argues if we will just let China in, we will have greater influence on China's reform efforts than we do now while they are outside of the World Trade Organization. I suppose that is debatable. But we ought to have the opportunity to have that debate.

In my estimation, our influence on China would be far greater before they are admitted to the World Trade Organization than afterwards. Our ability to influence the kind of reforms the World Trade Organization would desire will be far greater if we say you are going to accrue the benefits of trade under the WTO only after these market reforms have taken place, these trade barriers have been lowered. Reforms should first be enacted, changes should first occur, and then membership should be granted —not vice versa.

I think this question deserves debate: Can China be trusted on trade issues? When we look at our exploding trade deficit with China, can they be trusted on trade issues if admitted to the World Trade Organization, or will we admit them to the World Trade Organization and then find them cavalierly ignoring the standards and the rules of the World Trade Organization? Our administration's own Trade Representative Barshefsky stated in her testimony, a little over 2 years ago, in reference to China, that ''China imposes new import barriers to replace those it removed.'' In other words, there can be the appearance of reform taking place, but if there are new barriers that are being erected while the old ones are being brought down, you really have not achieved the reforms necessary for World Trade Organization membership.

China has almost one-third of its industrial production controlled by the state. Almost two-thirds of urban workers are employed in state-owned enterprises. These state-owned enterprises are notorious for their ability to destroy wealth. Some economists estimate that it would be cheaper for China to close down their state-owned enterprises and keep paying the workers—close down the enterprises, go ahead and pay them their salaries, they would still come out ahead, than to keep operating. But because the state-owned enterprises would be vulnerable to foreign competition, the Chinese Government has a strong disincentive to the state-owned enterprises that are heavily subsidized through China's centralized and insolvent banking system.

One of the pledges that the Chinese Government made was that they would rapidly privatize the state-owned enterprises, shutting down those that they had to, privatizing others, allowing them to create capital by selling stock, but because of the recent economic downturn in China in which their robust growth rate has dropped appreciably, China now has backed off that pledge and has once again begun a round of bank loans to these very unprofitable, state-owned enterprises to subsidize them and to keep them in business.

This is backpedaling already on the kinds of reforms that would be expected if China were in fact ready for admission to the World Trade Organization.

Another question that this body needs to debate is, Should China be admitted as a developing country with far less stringent expectations and longer transition than allowed for other nations? That is what they desire. They say we are a developing Nation; therefore, we should be treated more leniently. They base their claim primarily upon their per capita gross domestic product. By every other measure, China is a major economic power in the world today and they want to be treated as such. They want to be recognized as a major economic power.

China will argue that as a developing country, they are entitled to use subsidies. They are entitled to put limits on exports and other policies to promote development of certain key industries such as automobiles and telecommunications and heavy industrial equipment.

China maintains that such programs are a part of China's industrial policy and not related to its application to the World Trade Organization. Many trade officials simply disagree with that assertion by the Chinese Government. That is a question and that is an issue the Senate should have the opportunity to debate, not after the fact but before China is admitted to the World Trade Organization and before the U.S. Government announces its position on Chinese accession.

A WTO paper, prepared in response to a request from Chinese negotiators, suggested that industrial policies in China and other countries could violate the basic principles of nondiscrimination and national treatment and other WTO rules. They are not in compliance. They are not ready to join the WTO. Political considerations should not be the driving force in rushing China into the WTO before they have made necessary reforms.

Another question I believe we should debate is this: Should China be given membership in WTO before Taiwan, which is simultaneously seeking membership? Will it be the position of the U.S. Government that we support the admission of People's Republic of China to the World Trade Organization while not yet supporting Taiwan's admission? Which one should be admitted first? I think that is an important issue. I think that is one my colleagues in the Senate deserve to have the opportunity to discuss thoroughly.

Many believe that once China is admitted, they will work feverishly to block Taiwan's entry, even though Taiwan is a much more developed Nation, has a much more developed economy, and an economy which is much more consistent with WTO rules. Yet without a vote of the Senate or a vote of the House, this administration is prepared to support the admission of China to the WTO before Taiwan's admission.

I believe this question deserves debate as well: Will a premature entry by China into WTO hurt American business interests? I know that large corporate interests in this country support China's immediate accession to WTO, but many business people in this country have serious concerns as to how China's admission to WTO will impact them. U.S. business interests often want permanent MFN for China and would like to use an agreement on WTO, I believe, as a means to push for this goal, but many of these business interests are also concerned that China's WTO accession, without meeting market access and other requirements, would seriously limit U.S. business access to the Chinese market for a long time to come. The very access that American business wants so desperately, we would be locked out of that access permanently or for a long duration should they be admitted to the World Trade Organization before they have met market access rules. As a result, many U.S. interests are pushing U.S. negotiators to remain firm, to stand pat, and not concede on the conditions of China's entry into the World Trade Organization.

I believe another question that this body needs to debate is, How will WTO admission for China affect jobs? Indeed, we should consider how it would affect our jobs here in the United States.

I remind my colleagues, contained in this very supplemental appropriations bill, which we are soon prepared to vote on, is a measure to assist the U.S. steel industry and the jobs that go with it. Some of those jobs are in my home State of Arkansas, Mississippi County, Blytheville, AR, the No. 2 ranked county in the Nation in steel production. According to the Department of Commerce, last year alone the U.S.-China trade deficit in iron and steel was a $161 million loser for the United States. The year before that the U.S. realized a steel trade deficit of $141 million, and in 1996 the deficit was $140 million. Each year the deficit in iron and steel increases dramatically.

My point is, this Congress should have a say in whether we allow an agreement to be made when our trade imbalance is what we experience, even without granting China World Trade Organization status.

At the appropriate time, I would like to see China join the World Trade Organization and abide by its rules. I do not believe China is ready at this time to go beyond paying lip service to the fundamental changes necessary for accession, though I know some of my colleagues do believe that they are ready. However, I believe we can all agree that we ought not make this decision hastily. The consequences are too great and long lasting and, just as importantly, we ought not let the executive branch make this determination unilaterally.

Article 1 of the Constitution gives to us, the Congress, the express power over foreign commerce. This decision is too important for us to cede that power, and this amendment is a means by which we can preserve our legitimate role in the legislative branch.

Mr. President, I reserve the remainder of my time, and I inquire how much time remains?

The PRESIDING OFFICER. There are 11 minutes 15 seconds remaining.

Mr. HUTCHINSON. I thank the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, the Senator from Arkansas raises obviously a very important question, and that is, essentially, the terms under which the

United States should agree to help encourage China to be a member or accede to the WTO. It is obviously important because China, particularly in the next century, is going to be a very important country. It is now the largest country in the world, the most populous, the largest standing army, a nuclear power, one of the fastest growing ''developing countries,'' thousands of years of history, a very proud people. We in the United States clearly must be very careful and clear headed in our relationship with such a country, particularly when the question arises as to the terms under which China would accede to the WTO.

It is also true that under the Constitution, the U.S. Congress provides that the Congress essentially set trade policy. That is true. But the use of power is a very important matter. Sometimes it is important to use power that is entrusted to one. Sometimes it is important to forebear the use of power that is entrusted to one.

Certainly, Congress has the authority to pass the amendment suggested by the Senator from Arkansas. But that is not the question. The real question is, Should Congress adopt that amendment?

In my judgment, it has the ring of simplicity which often sounds good, but when one thinks about it a little bit more deeply and what the consequences of that amendment would be, it, at the very least, causes people to pause and, in my judgment, causes Senators to not support the amendment.

I am reminded of a statement by H.L. Mencken, a famous Baltimore Sun journalist: ''For every complicated problem, there is a simple solution, but it is usually wrong.''

That is this case. There is a complicated problem—China and our trade relationship—and the simple solution to some degree is, ''Congress should vote on whether to admit China to the WTO or not.''

This would set new precedent, a groundbreaking and very alarming precedent. In each of the previous 110 cases where countries have acceded to the GATT, or to the WTO, there has not been a congressional vote. Congress has never voted on whether a country should accede to the GATT, currently to the WTO. That is an executive decision.

There is a good reason why Congress has not voted in the past. Essentially, it is for the reasons suggested already by the Senator from Arkansas, because if we were to vote on whether China should accede to the WTO, that vote would essentially be a vote not on WTO, but it would be a vote on our ''overall China policy.'' It would include countless other relationships that we have with China.

The Senator from Arkansas already mentioned them. Human rights, for example. The Senator is very upset with China's human rights policy. He said that should be looked into. He implied looking into it in the context of this debate.

I, too, am upset with China's human rights policy. I daresay every Member of the Senate is upset with China's human rights policy. But are those issues considered in trade negotiations? Are they considered by the World Trade Organization? The Senator from Arkansas might think that they should be, but they are not considered in trade negotiations and in whether or not China is or is not meeting commercially acceptable principles under which it would properly be admitted to the World Trade Organization.

The Senator also mentioned the words ''political environment.'' He said this issue has to be considered in the total political environment of our relationship with China. He mentioned espionage. That is a charged issue right now. I daresay that if the Congress were to vote in the next several months presumably on whether China should accede to the WTO, there would be an amendment on espionage, there would be an amendment on human rights, an amendment on labor relations, an amendment on the environment. I can think of countless subjects that would be included, by the design of certain Senators, in any decision by the Congress whether or not China should be admitted to the WTO.

It reminds me very, very much of the debate we already had with respect to China, and that is whether the Congress, when we come up with the annual MFN review—actually a lot of us like to call it normal trade relationship not most-favored-nation status. MFN is a gross misnomer. MFN is not at all what it implies. It is not most favored. In effect, it is least favored, because we have so many trade agreements with so many other countries under terms that are more beneficial than the bottom line terms of MFN.

During the MFN debate, or normal trade relations debate, we have had in this Congress, particularly several years ago, the question was whether we should pass in this Congress every June a conditional extension of MFN or nonconditional extension of MFN.

Those who argued for conditional extension said, ''Well, we will continue MFN with China for another year if China abides by certain human right regimes, if China abides by certain nuclear technology transfer provisions, if China signs a comprehensive missile test ban treaty, if China''—all these other things.

In a sense, that debate became a debate about China and gave interest groups an opportunity—I use this term loosely—to kind of take off on or vent their spleens about a certain policy with which that Senator or interest group had a disagreement.

I have no problem with that. In fact, I support it. I support Members of the Senate and the House working vigorously to improve upon the relationship with China in each of the specific areas that we engage China, and there are many of them. Trade is one. Even within trade, there are many, many different levels. There are tariffs. There are distribution systems. There is access. There are all kinds of matters with which we have to deal.

Let's take national security, not very related to trade—indirectly but not directly. Our administration, other countries' administrations engage China on a host of national security issues.

Let's take the Taiwan Straits, for example. That is a separate matter. It is an extremely important issue. It is one that has become a bit sensitive in the last several days, but the U.S. Defense Department, the NSC, and our executive branch are working out with Taiwan, with China, and with Japan as much as possible the various interrelationships of that issue.

The main point is, those issues should be dealt with separately and on separate tracks. They should not be all subsumed in the one vote on whether China should be a member of the WTO.

I think it is also important to remember we have a lot of problems with China, but China has done a lot of good things, too.

What are they? Recently in the economic sphere, China, at great cost to itself, has not devalued its currency. China, in the last year, has been under tremendous pressure to devalue its currency so that it could sell more products overseas; it would help boost its economy. But China has not.

Why has China not devalued its currency? In many respects because the Americans have encouraged them, have asked them not to devalue. Why? Because if they were to devalue their currency, then the other southeastern countries—the baht in Thailand, the Indonesian currencies, North Korea—there would be great pressure on them to devalue further, which means that our exports will be that much more expensive, their exports to the United States that much less expensive, and the trade deficit we are all so worried about will be even worse.

China, at great cost to itself, has so far—that might change—not devalued the currency.

China has also signed the Comprehensive Test Ban Treaty. They signed it. That is a major step. That is good. China has helped provide more stability between India and Pakistan, particularly when those countries were starting to test missiles. It has been a very great help to us.

They also have begun to downsize their state-owned enterprises. That is not something we asked them to do, but at great cost to themselves, they are doing so, and that is a major effort.

There is banking reform.

The PLA, their army in China, which used to be a major competitor with companies in the United States, was not just an army, it was a manufacturing firm, an industry or a company making all kinds of products.

The PLA are going out of business. It is not entirely done yet, but they are going out of business. That is good. Even more fundamentally, let's think of this. What if this were 25 years ago and we were faced with the Asian currency turmoil, which did spread over to Brazil and over to Russia and has affected the whole world, as a matter of fact? If this were to have happened 25 years ago, I daresay that China would have used it as an opportunity to further destabilize—they could have used it as an opportunity to gain a strategic position in, say, Vietnam or in Burma, Thailand, maybe even in Japan, as they did 25 years ago when they exercised their power, but not in the economic sense.

Instead, today, 25 years later, when presented with this crisis, what has China done? It has not been a bad boy; it has been a good boy. China has, instead, downsized its state-owned enterprises as much as it possibly can. It is reducing its bureaucracy, cutting a lot of the dead wood. It is cutting back on the army dramatically. I was in China about a year ago talking with a general and all his colleagues who were being given the boot because the general officers corps, in addition to the lower ranks, was being cut back dramatically.

They are going through a lot of painful times. I am not going to stand here and apologize for China. We are very concerned about China. But instead, China is trying to be a player.

Why is WTO good for America and why is it good for China? WTO is good for America only under commercially acceptable principles. I must underline that forcefully. It is good for America because it will help encourage a greater rule of law in China, because there are commitments that China would have to agree to. It would help America because we could take China to the WTO.

The Senator from Arkansas has a concern whether we could ''trust'' China. I tell you, Mr. President, China will do more of what we wish if they are a member of WTO, at least on trade issues, because we can take China to the WTO.

The WTO is now much more impartial and more effective as a dispute settlement mechanism than it was under the old GATT, to be honest about it. The WTO as an institution is being tested now, particularly with respect to bananas and beef hormones, and some other issues—whether countries live up to it—but still it is a lot better than the old GATT, under which there was virtually no dispute settlement mechanism.

WTO is good for China, too. Why? Basically because it gives China status and more investment in China; it gives China the opportunity to be more of a player in the world economic scene. And that is all good. That is good for China; that is good for America.

We are so interrelated today economically, politically, socially that when one part of the world's economy collapses or goes south, it has effects everywhere. It affects the Senator's farmers. They have a harder time selling soybeans. It affects farmers in my State. They have a harder time selling wheat. That is why, when the Asian currency crisis occurred, at least in my State, our agricultural exports fell $50 million compared to the preceding year.

I must say, I think we have done a pretty good job as a country in managing, as near as we could, the currency crisis, which we did not cause. It was caused by a whole host of factors—essentially greed by a lot of creditors who did not look at financial statements closely anymore. But we have done a pretty good job managing. Secretary Rubin, Chairman Greenspan, Secretary Summers have done a good job of helping stabilize, as much as they possibly could, this turmoil.

Mr. President, the Senator also asked, ''Well, gee, who should be admitted first, Taiwan or China?'' That is a political issue. We should not look at this as a political issue. We should look at these countries on their merits. And if China does meet the commercially acceptable principles test closely, tightly, we should admit China. If they do not, we should not.

There are lots of different areas there that I wish to just briefly mention as to the test I think China should meet. I must say, Mr. President, I do not think this administration is going to send us a weak agreement. It would be foolish for them to agree to China's accession into the WTO under noncommercially acceptable terms. It would not make any sense. For one thing, it would be an outrage. Second, it would have an effect on MFN, a vote later. It would have an effect on fast-track proposals that may or may not come up. It just does not make sense. They will not do it.

One final point is this. The Senator wants a vote. The Senator is going to have a vote. It is on MFN extension, because, by definition, if the United States agrees, because China has met commercially acceptable principles, that China should accede to the GATT, then by definition this Congress must vote on whether to give China permanent MFN status.

There will be a vote. And obviously, if the U.S. Senate believes that the terms under which China is admitted are not acceptable, I daresay that this body will not agree to permanently extend MFN to China. So we ought to have a vote. The Senator wants a vote. By definition, there will be a vote.

But to have a second vote—and the second vote would be whether to admit—I say, would essentially be a referendum on China. It would not just be trade issues, it would be all the other issues, with all the other amendments that would come up, just as they did in the old MFN extension debate. Back then, after lots of gnashing of teeth and working ourselves through all this, what did the Congress do? The Congress agreed, the President agreed, that it made more sense to have unconditional extension of MFN rather than conditional.

What the Senator from Arkansas is essentially saying is, he wants conditional, he wants to have a vote on accession. And I would guess he also would like to have an opportunity to offer amendments on the pending bill. If the Senator says no amendments on the pending bill, that is another matter. I would like to hear the Senator's views on that—whether the Senator wants a straight up-or-down vote only on whether China should be a member of the WTO, whether he would oppose all amendments, whether he believes, frankly, there should be no amendments or not. That would be an interesting question.

Anyway, Mr. President, I made my main point, which is, let's have the vote, let's have the vote on MFN extension, not on the overall policy, because it has never happened before. In all the trade agreements that have been submitted to the WTO and in all the questions of accession to the WTO in the past—there have been 110 of them—never has a Congress voted, never.

And there are reasons. There are executive agreements. If we were to vote on it, particularly in this body, as a nonparliamentary form of government, it would be filled up with all different types of issues which are virtually unrelated to trade—very important issues: Human rights, national security, missile proliferation, nuclear proliferation, labor laws, environmental laws, but not WTO accession.

So I say, let's not vote for the Senator's amendment. Let's look at WTO when it comes up in the context of MFN. Then let's also work to engage China on all of the other issues on which we are dealing with China but on separate tracks, separate ways, because that is going to be a lot more effective. We should not link all this together. We should not link it together, but, rather, deal with these issues separately.

Thank you, Mr. President.

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

Mr. CHAFEE. Mr. President, I appreciate the concern of the Senator from Arkansas regarding the possibility of China's entry into the World Trade Organization (WTO). However, I do not believe his amendment is warranted, and urge the Senate to reject it.

The issue before us is the accession of China into the WTO. There is no question that China's accession into the world trading system carries important ramifications—not only for their economy, but for ours (and indeed, for those of all other WTO nations). Today, China is the world's third largest economy after the US and Japan, and the world's eleventh largest trading nation. US-China trade alone is more than $80 billion.

Clearly, because of these facts, we have much to gain by bringing China

into the world trading system and subjecting her to the WTO rules and regulations. At the same time, we understand that bringing China into the system also will mean some changes for our own industries. However, as long as China is brought in according to appropriate terms and conditions, I believe we have far more to gain than to lose.

The China WTO accession negotiations have dragged on for 13 years now. Much of the delay is related to the periodic changes of mind by the Chinese government as to whether they really want to join or not. After all, it will mean enormous changes for them as well. At the moment, the Chinese appear very interested in concluding their accession. I believe we should take this opportunity to see what might be accomplished.

That said, the United States has said repeatedly that China may enter only—and I stress, only—on ''commercially meaningful'' terms. Despite the current Chinese enthusiasm for the negotiations, if it does not lead to a ''commercially meaningful'' agreement, then the administration cannot accept it.

That is a crystal clear fact. We in Congress has made clear that an agreement that is not ''commercially meaningful'' is unacceptable. USTR, Treasury, the State Department, and USDA know this. They fully understand that they will have one chance, and one chance only, to present us with an agreement. All the Chinese enthusiasm in the world cannot change that fact. Thus, I believe that the administration will not—and indeed cannot—bring home an accession agreement that does not meet those terms.

The amendment before us would have Congress vote on the accession of China. Yet that is not the process that we follow for accession of new WTO members. Since 1995, 12 countries have joined the WTO. Congress has not voted on any of them. This would be a bad precedent to send. It would open a whole hornet's nest of votes on China's policies, trade or otherwise. And, given that the administration knows that a bad deal will not pass muster here, I would argue that it's just not necessary.

I say to my colleagues: let's let the experts do their job. They have their guidance from Congress. The USTR team, led by our experienced and tough Special Representative Charlene Barshefsky, have been working on China accession for years, and know the issues inside out. I am confident that they won't—indeed, can't—let us down.

Mr. MOYNIHAN. Mr. President, I join with the distinguished chairman of the Finance Committee in opposing the pending amendment. I do agree with the senator from Arkansas that the Congress ought to take a close look at the terms of any agreement that is reached with China regarding its accession to the WTO. But that is already provided for in the law. Under section 122 of the Uruguay Round Agreements Act, the administration must consult with the appropriate committees with regard to the accession of any country to the WTO. Those consultations are now taking place. I am assured that Ambassador Barshefsky will meet with each and every Senator who has an interest in this matter.

Moreover, as a participant in the WTO's Working Party on the Accession of China, the United States already has an effective veto over China's admission if we determine that the protocol of accession and China's market access commitments are inadequate. Since the Working Party operates by consensus, we could simply block the approval of the Working Party report and that would be the end of the matter.

It is clear that bringing China within the WTO framework—and subject to the WTO's rules—would be in the United States' interest. China is ranked as one of the top ten exporting countries in the world (WTO report, 1997 ranking) and ranks as the 12th largest importer. It must certainly be to the benefit of the world trading system to have China abide by the same rules as others.

American farmers and businesses also have an interest in securing improved access to China's market, and the WTO accession negotiations may provide the best opportunity that we will have in a very long time.

Certainly the United States should not accept an agreement that would bend the rules for China. Nor should we settle for a minimal market access package. And we will not. But neither should we cut off the negotiations at this point, which I fear this amendment would do. In essence, it signals, at a minimum, great skepticism on the part of the United States Congress.

I urge my colleagues to vote against this amendment.

Mr. ROBB. Mr. President, whatever frustrations many of us may have right now regarding our bilateral relations with China, including allegations of Chinese espionage against our national labs, the deteriorating human rights situation in that country, the ballooning trade deficit, and more, we need to be careful about micro-managing the Executive as it conducts comprehensive negotiations over the terms of China's accession to the World Trade Organization (WTO).

Congress' voice ought to be heard on this subject, and it will be. The Jackson-Vanik amendment to the Trade Act of 1974 precludes granting unconditional MFN (permanent normal trade relations status) without a Congressional vote. By law, we will have the opportunity to carefully review and pass judgment on whatever agreement the Administration reaches with China, whenever that may occur: during Premier Zhu Rongji's visit next month, later this year, or perhaps years from now.

Ambassador Barshefsky and the other USTR officials negotiating directly with the Chinese deserve credit for appropriately consulting with Congress. Just yesterday lead negotiator Bob Cassidy reviewed in great detail with our staffs all aspects of the negotiations. Active consultations at this stage make sense, but the Senate directly intervening in the process by requiring a congressional vote on a WTO agreement with China—on the front and back ends of the protocol negotiations—is redundant, unnecessary, and tramples on Executive branch prerogatives. On those grounds, I support the tabling motion.

Mr. THOMAS. Mr. President, as the Chairman of the Subcommittee on East Asian and Pacific Affairs, I rise in opposition to the HUTCHINSON amendment and urge my colleagues to vote to table it.

I support China's accession to the WTO. I believe that it is in our own best interests to draw China further into the world community through fora such as the WTO. It will benefit the United States by creating a more-equal trade relationship between us, and will work to promote the rule of law in China. I also believe that it will benefit the United States by taking bilateral trade disputes which may pop up between us and making them multilateral, thereby minimizing the opportunity for those disputes to spill over and infect the rest of our relationship.

Of course, my support has an important caveat. China must accede on what are called ''commercially acceptable principles.'' China cannot accede as a developing country in some areas, and a developed country in others, leaving it to China to determine which are which. If the time comes for China's accession, Mr. President, you can be sure that if I am not convinced that the terms of China's accession are commercially acceptable, I will be the first Member to rush to this floor to oppose accession.

This amendment though, Mr. President, is not about the mechanics of accession to the WTO. Rather, it is yet another thinly-veiled attempt by its author—one in a long series of attempts—to single China out and punish it for offenses—real or imagined—committed in other spheres. Let me be clear: there is no argument that there aren't problems in our relationship with China, serious problems that we need to address. But there are more appropriate ways to address those problems. WTO accession is a trade issue. It is not a human rights issue. It is not a military issue. It is not a technology or nuclear transfer issue. It is not an issue about how China treats Taiwan or Hong Kong or Tibet. The issue should not be linked under the guise of a WTO debate; we should not turn a decision on WTO into a referendum on the immediate state of our overall bilateral relationship.

In addition, the sponsor makes a great deal of only wanting to pass this amendment in order to afford the Senate the opportunity to debate and then

vote on all the merits of China's accession should that time come. But Mr. President, we already have that opportunity. If and when China accedes to the WTO, that is not the end of the process. Congress still has to vote on extending permanent most-favored nation status to China. That debate will give the Senate, and the sponsor, ample opportunity to address all of the myriad issues surrounding China that he rightly feels are so important. It will give us a chance to raise concerns about human rights, military buildup, trade deficits, and all the rest. There is no need to afford ourselves the same opportunity twice.

In addition, Mr. President, requiring this second vote has no precedent. One hundred and ten countries have acceded to the WTO since 1948, and not once has the Senate required that we be afforded a separate vote on one of those accessions. But the Senator from Arkansas would like to single China out and set a different standard for that country's accession, to treat it differently than any other country that has come before it, or—presumably—would come after. I don't believe he can make a compelling case for doing so. Moreover, I am not convinced that giving ourselves veto authority in this manner over a trade agreement reached by the Executive Branch could pass constitutional muster.

For all these reasons, Mr. President, I urge my colleagues to oppose the amendment and support the motion to table of the Senator from Alaska.

Mr. ROTH. Mr. President, I rise to oppose the amendment offered by my distinguished colleague from Arkansas, Senator HUTCHINSON. Like him, I am deeply concerned about the issues he is attempting to address with this legislation—human rights violations and security concerns involving China, particularly the theft of scientific information from Los Alamos. I am concerned about China's military build-up, its continuing threats of force against Taiwan, and what is taking place in Tibet. I believe that appropriately addressing these issues is vitally important and I look forward to working with Senator HUTCHINSON and others to do so.

However, as chairman of the Finance Committee, I must oppose both the method and timing of this approach. It not only fails to allow the Senate to raise and address the sensitive issue of trade relations with China in the appropriate forum of the Finance Committee—a forum where the merits of such an amendment can be carefully studied and weighed against the best interests of our nation—but this approach also has tremendous foreign policy implications that need careful scrutiny.

Let me address the first concern. Trade negotiations and trade agreements go to the core of the Finance Committee's jurisdiction over trade matters. Together with Senator MOYNIHAN, I as Chair, and he as ranking member, are responsible, not only for the Committee's substantive role in the trade policy process, but also are the guardians of its prerogatives. The Committee was the first formed in the United States Congress when tariffs were the central source of revenue to a still new republic. Trade and tariff policy remain central to the Committee's role in the legislative process.

For example, the Finance Committee reported out a trade bill the first day of the 106th Congress. In addition, at my instigation, the Committee has launched a comprehensive review of America's trade policy, including the role that China's accession to the WTO would play in our trade policy.

Unfortunately, there has been no attempt to offer this legislation and lay it before the Finance Committee for its review. Nor has there been any attempt by its supporters to engage with the Committee in the process of our review of America's trade policy.

Instead, this amendment seems to be driven by the emotions of the moment toward a form of legislative anarchy. It has gone around the Finance Committee in a way that provides no time for the deliberations for which the Senate is designed. It attempts to move legislation of monumental importance to our trade and foreign policies on the back of a supplemental appropriations measure principally designed to help impoverished countries in Central America and to support the constructive role Jordan has played in the Middle East peace process.

Beyond these procedural concerns, I am deeply concerned about the underlying intent of this amendment. Is this bill being raised at this time out of a concern that our trade negotiators will not strike a deal that serves our commercial interests in China? Or is this bill being offered simply to hinder those negotiations in response to recent allegations of spying or the theft of secrets from Los Alamos?

I ask those questions because there seems to be a rush to pass this measure in advance of the visit of Zhu Rongji to the United States. It rests on the assumption that the United States will reach an agreement on WTO accession and that, by virtue of that deal, China will enter the WTO the day after Zhu leaves.

That is simply wrong. Everything we hear of the negotiations is that it will be difficult even to reach an agreement on U.S. access to China's market. I want to emphasize to my colleagues that a deal on market access, even if it is reached in time for the summit, is only one step along the road to China's accession to the WTO. The more difficult negotiations on when and how China will agree to be bound by the basic rules of the WTO remain. No protocol of accession will be approved until those negotiations are complete.

In other words, there is no reason to act precipitously on this measure. There is no reason to subvert the normal legislative processes to secure passage of this amendment at this time. Indeed, the Finance Committee is actively at work on trade matters as part of the trade policy review I have initiated. That is the appropriate venue for the initial discussion of this measure and any necessary refinements to my colleague's approach.

China has been the subject of intense concern to the Finance Committee. We have made it clear at every stage that constructive trade relations with China must offer concrete assurances of U.S. market access consistent with our national interest. We have also made it clear that there must be no rush to judgment or attempt to offer a politically-motivated deal to the Chinese simply because the White House wants a foreign policy ''deliverable'' to cap the upcoming summit meeting.

My impression from our discussion with Ambassador Barshefsky is that, while there has been considerable progress in recent days, there is still a considerable distance to go even before the United States could agree to a package on market access, much less the more difficult process of negotiating the actual protocols of accession.

Beyond these reasons, Mr. President, I oppose Senator HUTCHINSON's amendment on China's accession to the World Trade Organization because of the damaging precedent it would set for all future WTO accessions. It would dramatically undercut the United States' consistent position—under both Republican and Democrat presidents—that accession to the WTO and its predecessor organization, the GATT, is not a political decision, but is one we as Americans base simply on another country's willingness to be bound by the same rules that govern our other trading partners in the world trading system. It is quintessentially a commercial agreement that should be judged on its merits as such.

I also oppose this amendment as a matter of Senate procedure. I have always objected to attempts to legislate on appropriations measures. Offering substantive amendments to appropriations bills subverts the normal process of the Senate by which legislation is introduced, moved through the committee of jurisdiction with expertise on the matter, and moved to the floor.

Attempts to modify substantive law on the back of appropriations bills often results in the delay of the appropriations themselves. Whether my colleagues support the current supplemental or not, I think we would all agree that the bill deserves to rise or fall on its own merits, not as a result of extraneous and unrelated matters.

For all these reasons, I urge my colleagues to vote against Senator HUTCHINSON'S amendment.

The PRESIDING OFFICER (Mr. VOINOVICH). The Senator from Arkansas.

Mr. HUTCHINSON. Mr. President, might I inquire as to how much time each side has remaining?

The PRESIDING OFFICER. The Senator from Arkansas has 11 minutes 15

seconds. The Senator from Montana has 9 minutes 52 seconds.

Mr. HUTCHINSON. Thank you, Mr. President.

If I might just briefly respond to a few of the points that my good friend from Montana made in his excellent statement.

It seems to me to be a difficult proposition to come to the floor of the Senate and argue that we should not have a debate and to argue we should not have a vote on the admission of China to the World Trade Organization. Yet that is the posture which the opponents of this amendment must be.

The Senator from Montana has said it would be an ''alarming precedent''—I believe those are the exact words—that has never happened before. In many ways, China is unprecedented. They are unprecedented in their size, their population, and their impact upon world events. And in many ways the abuses that are currently going on by their government to their own people are unprecedented. It is unprecedented to have a nation in the World Trade Organization with 40 percent of the economy controlled by the state. That is unprecedented.

Perhaps that is a good reason to have a debate on this issue and have a vote on who should be admitted to the World Trade Organization, since it would be unprecedented for a nation of this size, with such a mixed economic system, to be admitted to the World Trade Organization. It is unprecedented to admit to this trade organization a nation that views us as a hostile power and, as evidence indicates, has aggressively spied on the United States and stolen nuclear secrets from the United States.

To say it is an ''alarming precedent,'' I think is a great overstatement. In fact, if there was ever a reason to change the precedent, it would be because of China's behavior.

The Senator from Montana said amendments would certainly be messy. That is what democracy is about. That is what happens; that is what debates are about; that is what freedom is about. It might be messy; it might be unpleasant to vote on amendments that might be offered. But to respond to the question of the Senator from Montana, I am more than delighted to have a straight up-or-down vote with no amendments. If we were in the House of Representatives, we could have the Rules Committee provide such an order; we would have no amendments, and we would vote up or down on whether China ought to go into the World Trade Organization. I am delighted to have such an opportunity, and I make a commitment to that right now. If we have a unanimous consent, at the appropriate time, I support having a clean vote on China's accession to the World Trade Organization.

I was somewhat surprised to hear my colleague from Montana say China has not been a bad boy, they have been a good boy; a number of things they helped us with—Pakistan and India. They had signed international agreements. They had shown restraint.

They have been adjudged one of the greatest proliferators of weapons of mass destruction in the world today. In fact, they were a great contributor to the problems and the arms race that has developed between Pakistan and India.

Signed international agreements—indeed, they have signed international agreements. Last year, they signed the International Covenant on Civil and Political Rights, and since they signed that international agreement our State Department has adjudged their behavior on civil and political rights abysmal. They have a new and vicious and brutal crackdown upon the rights of their own people. That is the international agreement.

My colleague said they have shown restraint, not like the adventuresome nature of their politics 25 years ago; they have shown restraint. Well, I don't believe it is restraint for them to vigorously modernize their weapon systems and to vigorously seek American technology through legal and illegal means.

All of that aside, some of the questions were answered, but many of the questions I raised were not addressed at all and have nothing to do with anything other than trade and the economy. But they are questions that need to be debated, questions that need to be answered. Are we lowering the WTO bar for access to the Chinese? To say that we can deny them permanent MFN after the fact, after they have been admitted to the WTO, and that will be our vote, I think begs the question. There will be such international pressure for permanent MFN if we have already supported their admission to the WTO that it will be inexorable. It will be a fait accompli. But the evidence clearly is that we are setting a different standard for China.

In my discussions with the State Department over a year ago, they made it very clear to me that they were debating within the State Department whether we would have greater influence on China with them in at a lower standard, or out waiting for them to change and to make the necessary reforms. It is very clear that the administration has pursued the idea of lowering the standards so that China could be brought in prematurely. Admitting them as a developing country is changing the standards for China. These are issues which have not been addressed today in our debate but need to be addressed by the U.S. Senate.

I will not go through all of those questions again, but they are important questions. The Senate and the Congress should not keep ''punting'' on trade issues. We have a constitutional role. We are a coequal power with the executive branch. This is an opportunity for us to regain our voice on those very, very important issues that affect the lives of every American. The issue today is not do we want China in the WTO; the issue is do we want to have an opportunity to debate that and to vote on that. That is the issue.

I have said, and I will say again, I want China in the World Trade Organization at the right time and under the right circumstances. But I do not believe that we should allow the administration to make a unilateral decision coopting the constitutional right of the House and Senate to express itself on this very, very important issue.

I hope that this amendment will be passed, that we will have the opportunity at the appropriate time to vote yes or no on China's admission to the World Trade Organization. I hope that the reforms are made in China so that I could vote yes on that. I would like to see that, but I believe that we have the greatest leverage we will ever have in bringing about reforms before we concede ahead of time that they should go into the WTO.

I believe this is an eminently reasonable amendment because we are not prejudging what the outcome should be. We are simply saying we should have the right to vote. We should say yes or no—not trade negotiators in a vacuum apart from those who were elected by the people to represent.

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

Mr. STEVENS. How much time remains?

The PRESIDING OFFICER. The Senator from Arkansas has a little under 4 minutes, and the Senator from Montana has a little under 10 minutes.

Mr. BAUCUS. I will take just 2 or 3 minutes before I yield back my time. We are getting into the repetitious stage.

Let me say that it is important to think about the precedent. Congress has never voted on this issue before. There are a lot of other countries that are going to be seeking membership in the WTO. They are basically former Soviet Union republics. Russia—name them. They all are going to be looking for membership in the WTO. If we start voting now on membership, I think we have to do the same for all the others, and they will get caught up in the other issues, too, that have already been discussed.

Frankly, the Senator from Arkansas made my case when he said that at this time we have the greatest leverage. It sounds to me as if the leverage he is talking about is on human rights. It is on lots of issues. I just think that we do not want to get to a debate on China policy if and when the U.S. executive branch seeks to have China become a member of the WTO.

I also suggest to my good friend from Arkansas it is a good opportunity for the Senator and all of us who are concerned about the terms of China's infamous WTO, the economic terms, to make our case very strenuously now with the administration, with Ambassador Barshefsky, with others in the administration, so that they do come

up with terms that we would more likely agree with than not.

Now is the time. There are intense negotiations going on now. Premier Zhu Rongji is about to visit this country. I think it is Premier Zhu Rongji's visit to the United States which gives us ''leverage,'' because he will want to come with an agreement. We should make use of that leverage by vigorously talking with the administration.

It has been a good debate and I think we should deal with all these issues of China separately, not in the context of WTO. I hope that the Senators would agree with the Senator from Alaska when he moves to table the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS. I yield back my time.

Mr. HUTCHINSON. Mr. President, I will take a moment, and then I will yield my remaining time.

I say that the leverage of which I speak—I think the Senator from Montana knows and agrees that the leverage is greater now before China goes into the World Trade Organization. The issues of which I speak deal primarily with trade issues. I hope we will use that leverage for human rights and nuclear nonproliferation across the board. But certainly there are trade issues that are critically important.

We have almost a $60 billion deficit with China. They have great barriers there, and we cannot lower the standards just so we can have a political announcement and have a gift that we are providing the Chinese by saying we are going to support your accession to the World Trade Organization.

I didn't want to offer this amendment today. I would much rather that this had gone through the committee. I would rather we had a different vehicle. But we are going out on Easter recess and the Premier is coming to this country. The negotiations are coming to a head. This is the only opportunity we have to ensure that we will have a voice on whether or not they should go into the WTO.

I urge my colleagues to support this amendment—not to table it but pass the amendment and let the administration know how seriously we take this issue, and that as a coequal branch of Government we should be able to approve or disapprove whether China goes into the WTO.

There are serious issues that were not raised in this debate. We have had a good debate, but there needs to be a much more thorough debate, with many more Members involved. That will take place at the appropriate time if this amendment is passed. I ask colleagues to support it at the appropriate time.

I yield the remainder of my time.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, is all time yielded back?

The PRESIDING OFFICER. All time has been yielded back.

Mr. STEVENS. Mr. President, I am constrained to make a motion to table because I believe that this amendment, if not tabled, would take a considerable amount of time. I served in China in World War II. I would like to be involved at length in this debate, but this is not the time or the place for that debate.

I hope all Senators will understand that I make this motion merely to try to control this supplemental and get it ready for a conference at the earliest possible moment.

I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. Mr. President, that will be postponed until 2:30.

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. Mr. President, I ask unanimous consent that the only amendment that would be in order between this time and 2:30 would be the Torricelli-Harkin amendment, that there be no second-degree amendments, and that if the Senators finish the use of their time prior to that time, the Senate stand in recess until 2:30.

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

AMENDMENT NO. 92

(Purpose: To terminate the funding and investigation of any independent counsel in existence more than 3 years, 6 months after the termination of the independent counsel statute)

Mr. TORRICELLI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. TORRICELLI], for himself, Mr. HARKIN, Mr. DURBIN, Mrs. FEINSTEIN, and Mr. REID, proposes an amendment numbered 92.

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

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

The amendment is as follows:

On page 45, between lines 18 and 19, insert the following:

SEC. ___. LIMITATION OF FUNDING.

(a) IN GENERAL.—Effective December 31, 1999, funding authorized pursuant to the third and fourth provisos under the heading ''SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES'' under the heading ''LEGAL ACTIVITIES'' under the heading ''GENERAL ADMINISTRATION'' in title II of Public Law 100–202 (101 Stat. 1329-9; 28 U.S.C. 591 note) shall not be available to an independent counsel, appointed before June 30, 1996, pursuant to chapter 40 of title 28, United States Code.

(b) PENDING INVESTIGATIONS.—Any investigation or prosecution of a matter being conducted by an independent counsel, appointed before June 30, 1996, pursuant to chapter 40 of title 28, United States Code, and the jurisdiction over that matter, shall be transferred to the Attorney General by December 31, 1999.

Mr. TORRICELLI. Mr. President, I rise today with my colleague from Iowa, Senator HARKIN, and on behalf of Senator DURBIN, Senator FEINSTEIN, and Senator REID of Nevada, to offer an amendment to bring some rational conclusion and fair determination to the issue of independent counsels in the U.S. Government.

I begin with a simple admission. In 1994, as a Member of the House of Representatives, I voted for and argued for the enactment of an independent counsel statute. I was not mindful then, as I am now, of the complete record and statements as to the likely outcome of the independent counsel statute.

Howard Baker, then a Member of this institution, argued that the independent counsel statute would ''establish a virtual fourth branch of Government, and would substantially diminish the accountability of law enforcement to the President, the Congress, and the American people.''

Acting Attorney General Robert Bork, warned: ''What you are doing [with the independent counsel statute] is building an office whose sole function is to attack the executive branch throughout its tenure. It is an institutionalized wolf hanging on the flank of the elk.''

Mr. President, I take no delight in admitting it, but it is inescapable. Mr. Baker, Mr. Bork, and other Members of this institution were right. And many of us in my party, and, indeed, President Clinton, who ultimately signed the law, were wrong.

It is now clear—I think unmistakably clear—that the independent counsel law, when it expires on June 30, 1999, will not be reauthorized. There is not only not the votes in this Senate or in the other body, but there is not a rationale based on the historic experience to allow this law to continue.

It brings me no pleasure to bring to the floor of the Senate the weight of the evidence that supports the conclusion that the law should expire. But it is overwhelming, and it isn't only Kenneth Starr. Independent counsels, from Walsh to Smaltz, have given us no choice but to close this unfortunate chapter. The list of abuses by independent counsels are daunting, and they are dangerous. Mr. Starr has no monopoly in his violations of law, ethics, or common sense. But the investigation that is now underway in the Justice Department of Judge Starr is still instructive. It teaches us a lot about the basic failings of this law, how it can be abused, and why the amendment that I offer today, along with Senator HARKIN, is of such value.

First, Mr. Starr apparently may have failed to inform the Attorney General about his contacts with Paula Jones' attorneys. Indeed, he may have misled the Attorney General on this issue.

Second, it is overwhelmingly clear that Mr. Starr, or his subordinates, leaked confidential grand jury information in direct violation of the Federal Rules of Criminal Procedures.

Third, it is possible that Mr. Starr may have used questionable prosecutorial tactics by making an offer of immunity to Ms. Lewinsky contingent on her not contacting her attorney.

These may not be the only violations of procedure or law, but they tell us something about the fact that there is something institutionally wrong with how the independent counsel statute has functioned.

I do not raise these things out of any vendetta against Mr. Starr, or his tactics, or his office, because this is an institutional problem. Indeed, in the last few years, Donald Smaltz has spent $7 million investigating former Secretary of Agriculture Michael Espy. Last year, after a 2-month trial, in which the defense never found it necessary to call a single witness, that $7 million investigation resulted in a jury acquitting Mr. Espy on each and every one of the 30 counts in the indictment.

C. David Barrett spent $7 million investigating former HUD Secretary Cisneros on allegations that he lied about payments to a former mistress. Mr. Barrett went so far as to indict the former mistress over misstatements on a mortgage application form. Nor is it limited to this administration.

In the previous administration, after a 6-year investigation, Lawrence Walsh indicted Casper Weinberger only 5 months before the 1992 Presidential election in either a moment of political convenience, or worse. Mr. Walsh had spent $40 million over 7 years in his investigation.

I believe it is now clear that, despite the best of intentions and our frustration with the Watergate experience, we now know the independent counsel statute is deeply flawed. It has created a prosecutor that is accountable to no one. It is a contradiction with the most basic lessons of our Founding Fathers in the Constitutional Convention. Indeed, in Federalist 51, Madison sums up the need for checks and balances of every office, every center of power in the Federal Government, with a simple phrase ''Ambition must be made to counteract ambition.''

Mr. Walsh, Mr. Barrett, Mr. Starr, and Mr. Smaltz are ambitious men, but their ambition is met with no countervailing power.

There is, in theory, in the Office of the Attorney General the opportunity to dismiss for cause, to hold accountable, but in the political realities of our time no Attorney General could exercise that authority against an independent counsel investigating an administration in which he or she is a component part.

The Congress does not even control the ability of oversight of expenditures. As a Member of the Senate, and as a member of the Judiciary Committee with oversight responsibilities for the Judiciary, for the operation of the Attorney General, I wrote to Mr. Starr and to the Justice Department asking about how this $50 million had been spent and received nothing but a vague reply with broad categories. Mr. Starr's office remains the only functioning office in the entire U.S. Government where the people's representatives cannot inform on behalf of the people how millions upon millions of dollars are spent. But mostly, I suppose, if the money were wasted and power were exercised responsibly but the net result was still a rising level of public confidence in public integrity, it might be worth the abuse or the expenditure. But this isn't the case either.

The independent counsel statute has not succeeded in removing politics from prosecution. It has brought a new element to politics, the hijacking of these offices, the use of them for their own political purposes, only now without oversight. Public confidence in the administration of justice has not only not improved but it has completely failed.

Now it is being argued that the law will expire and there will never be independent counsels again. I believe that is an accurate portrayal of the situation, but the current five independent counsels should simply be allowed to continue in their work. The question remains, how long and for how much?

Mr. Starr has suggested his investigation may go to the year 2001. He has the power for it to continue until the year 2010, 2020. When will Mr. Barrett complete his case, in this decade or the next? And, if $50 million was an outrage by the public for the expenditures of Mr. Starr, there is nothing between here and his expenditure of $100 million, $200 million. Is he the only person in the Federal Government who will retain the power to unilaterally spend unlimited sums of funds with no oversight for any purpose?

That is what brings me to the floor today with Senator HARKIN, to offer an amendment that allows Mr. Starr, Mr. Barrett, and the other three remaining independent counsels to continue with their investigation for 6 months after the expiration of the independent counsel statute on June 30. For the remainder of this year, they retain their authority, their budget appropriations, and they should complete their files and prepare their cases. During that 6 months, they should work with professional prosecutors in the Justice Department, the Public Integrity Section, as applicable, and prepare the transfer of their cases. The cases will continue. They will be in able hands with professional prosecutors, with ample resources.

This law is not intended to end any investigation. It will not end any investigation, but it will allow for the orderly transfer of these investigations and prosecutions within the Justice Department. Those two investigations which have not had independent counsels appointed for 3 years, involving Secretary Herman and Secretary Babbitt, are not affected by this amendment. It is our belief those independent counsels have not had at least 3 years to prepare their cases. We will give them every benefit: Take the time as independent counsels after the law has expired, prepare your cases, continue the prosecution if you have a case, or dismiss it if you do not. This amendment is reserved only for those cases where more than 3 years has expired and where, after the expiration of the independent counsel statute, there is a need to then proceed.

I believe this amendment is fair. It will help restore public confidence and allow the Congress to know the taxpayers' money is being spent properly. It will transition the Federal Government into the post-independent counsel statute method of dealing with these important questions.

I thank Senator FEINSTEIN and Senator DURBIN for joining with Senator HARKIN and with me in offering this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, with respect to my colleague from New Jersey and the other cosponsors of this amendment, I rise to oppose the amendment. I understand some of what has moved them to have the strong feelings they do that lead to this amendment, but I think it is certainly ill timed and ultimately ill advised.

I say it is ill timed because the Committee on Governmental Affairs, on which I am honored to serve as the ranking Democratic member, is in the middle of an inquiry, holding hearings on the fundamental question of whether to reauthorize the independent counsel statute, hearings which will continue for at least a month more. I think it is worth letting that process work what we hope will be its thoughtful and constructive way.

I know many of my colleagues oppose reauthorizing the statute, and that is true of Members on both sides of the political aisle, just as I am heartened by the fact that Members on both sides of the political aisle support the retention of the independent counsel statute or some version of it. I hope we can work together to develop a law that establishes the principles of independence of investigation when the highest officials of our Government are suspected of criminal behavior. It may take some time and some convincing. Most people believe this will not happen by the June 30 expiration date of the current statute. The statute, therefore, may lapse for a time while we work on this. But that would not be a catastrophe, because under existing law the independent counsel who are in effect now would continue to do their work.

Regardless of how the underlying question of whether we have an independent counsel—inside the Justice Department, outside the Justice Department—or not, is resolved, I believe it would be a serious mistake to single out, as this amendment does, what I

gather to be four of the independent counsels for termination while their investigations are ongoing. In that sense, this amendment is not just a preemptive attack on the statute while we are still considering as a committee and as a body whether to reauthorize it, it is what might be called a personal attack on the most controversial independent counsels. In that sense, it actually cuts against the purpose of the statute in the first place, which was to provide for independence of investigation and prosecution. The fear was, when the statute was drafted and adopted in 1978 after Watergate, that prosecution—investigation of high-ranking officials of our Government would be interfered with by people in the executive branch who would be affected by those investigations.

There is a way in which this amendment puts Congress in a position of compromising the independence of these investigations. Under the amendment, all the independent counsel investigations besides the ones covered still operating after the law expires on June 30, would continue. It is not until they reach the 3-year deadline in the amendment, but until their work had been completed and their offices were terminated pursuant to the statutory provisions which are currently in effect.

There are two other ongoing independent counsel investigations begun in 1998 which, as my friend and colleague from New Jersey, I believe, just indicated, would never be affected—in fact, would never be affected by this amendment. Similarly, there may be other independent counsel currently operating under court seal, which we would therefore not know about, who would not be affected. And the Attorney General may appoint additional independent counsel before the statute expires on June 30. All of these would not be affected. This amendment as I understand it and read it, affects only four independent counsel: Kenneth Starr, David Barrett, Donald Smaltz, and Larry Thompson.

I am not rising to oppose this amendment because I want to defend the investigations that these four men have carried out. I do not want to. I don't need to. Some of the criticisms of their work may be valid; some may not be. But that is not the point, as I see it. The point is, and the question is: Do we in Congress want to set the precedent of terminating an ongoing separate branch investigation and prosecution for whatever the reason that it has aroused our opposition? I think this would be a bad precedent which smacks of violation of the separation of powers doctrine and values.

I know we maintain the power of the purse, and it is an important power, but it has to be exercised with great discretion and sensitivity, particularly when we are affecting one of the other branches of Government and particularly when we are affecting a branch of Government whose particular participants here are involved in controversial independent investigations. It was no accident that the framers of the Constitution went out of their way in a whole series of cases, including in the impeachment provisions in the Constitution which we have just come through, to make it very clear that Congress does not have the power to prosecute. That was one of the lessons the framers learned from their own history. So, as we remember in the impeachment provisions, and it was central to the decision that many of us made, that impeachment existed not to prosecute the President in that case.

That was something that the Constitution tells us could be done after an individual left office by the appropriate branch of government. I worry very much about the effect of the precedent that will be set here, understanding some of the concerns that motivate the amendment, but thinking beyond the current situation. A precedent would be set for Congress to intervene and terminate independent criminal investigations and/or prosecutions. We do not have to do it. The law makes clear that there are others who can take these steps. The independent counsel statute itself contains a mechanism by which the Attorney General can remove any independent counsel, including these four, for cause. So far she has declined to use that authority. I think to some extent what is involved here is our respect for her right, as the Nation's chief law enforcement officer, to make the decision as to whether to use the power we have given her in statute to decide whether or not to remove these four independent counsel.

Why should we presume to replace our judgment for hers? The statute also contains a provision by which either the Attorney General, the independent counsel, or the special panel of three appellate judges can move to terminate an investigation, if its work has been substantially completed, whether or not the independent counsel himself thinks that is the case. This amendment makes an exception to those ongoing statutory provisions for four independent counsel. It is not the proper role of Congress, in my belief, to decide that certain prosecutors should be fired in the midst of their work. We should apply the same provisions of the law to those independent counsel whose investigations have displeased us, either because of the content or the length of the investigations, as we do for those that have not displeased us.

Even if this amendment's 3-year cutoff applied equally to all of the independent counsel, it may well constitute an unjustifiable interference in ongoing criminal investigations.

The independent counsel statute, as it exists today and as I mentioned earlier, grandfathers existing investigations, if the statute is not renewed, for a number of very good reasons. Among them are that after a prosecutor has spent time on a lengthy and complex investigation, he has built up a store of information, institutional memory, ongoing leads and relationships. Much of that would be lost if these cases were turned over to the Department of Justice midstream. Again and again, I have heard critics of the independent counsel statute complain of the inefficiencies involved in requiring newly appointed independent counsel to find office space and assemble staff before they begin their work, but we need to weigh carefully whether there are greater inefficiencies and greater harms involved in tearing apart these offices before they have finished their work. The inefficiencies, I think, would be compounded if we in Congress ultimately pass a statute to replace the current law.

The legislative process has barely begun on the question of whether or not to renew in its current form or some revised form the Independent Counsel statute. None of us, certainly not I, can say where this will lead. Perhaps a new independent counsel would have to be appointed and attempt to reconstruct the work that had been done. Before a new law is passed, it is not clear to me how the Attorney General would be expected to handle the investigations that would be returned to the Department at the end of the year.

Yesterday, in testimony before the Governmental Affairs Committee, the Attorney General promised to continue appointing independent counsel where necessary, pursuant to regulations, if the current statute expires.

The amendment before us may have the ironic effect of requiring the Attorney General to immediately appoint a new independent counsel to resume investigations and prosecutions that were already well underway towards completion, which I fear might mean not only a bad precedent and principle, but additional expenses as well.

Finally, Mr. President, the Attorney General declared yesterday that she is opposed to reauthorizing the independent counsel statute, but I think it is fair to say that she nonetheless saw dangers, problems implicit in the pursuit and purpose of the amendment before us now. I thought she urged us to reject it. At least she said it didn't make sense to her. I admire her forthrightness on both counts, though I disagree with her on one. Whether or not you support the independent counsel statute, I hope my colleagues will think twice before going on record and supporting the precedent of premature termination by Congress of prosecutors who are appointed to be independent guardians of justice, independent from the executive branch and independent from the legislative branch as well.

I thank my colleagues.

Mr. TORRICELLI. Mr. President, will the Senator yield?

Mr. LIEBERMAN. I will.

Mr. TORRICELLI. Mr. President, I thank the Senator for yielding.

I want to make certain that the record is complete and accurate. The

Senator has suggested that it would be interfering with an ongoing criminal investigation. The Senator understands that in these 6 months, the independent counsel would have time to take their cases, as they are now prepared, and their relatively small offices and give them to professional prosecutors in the Justice Department who have been pursuing similar or more important cases for years. There is no diminution in resources, quality of personnel, or ability to pursue the case. Ironically, this is probably bad news for the potential defendants, because they are going to be facing much more experienced prosecutors.

I just wanted to make certain that was clear on the record and the Senator understood that.

Mr. LIEBERMAN. Mr. President, I thank my friend from New Jersey. I do understand it. My reaction to it is that we are still taking from these offices that have been working on these cases and establishing a precedent for various reasons. It is a precedent that can be misused, as time goes on, of terminating an ongoing independent counsel prosecution by the individual, firing the individual who is doing it, turning it over to the Justice Department, which, of course, has many, many capable and experienced lawyers, but who have not been working on this case. Therefore, I think that it would suffer not only from redundancy and inefficiency, but most of all, I worry, no matter what we think about these four or the independent counsel statute, it would set a bad precedent of legislative intervention into independent investigation and prosecution.

Mr. TORRICELLI. Mr. President, will the Senator continue to yield for one more inquiry?

Mr. LIEBERMAN. I will.

Mr. TORRICELLI. The point was made, as well, as to whether or not this is an unconstitutional interference. The right of the Congress to reassign responsibilities, to reassign appropriations, of course, is an innate part of the function of Congress. The Senator from Connecticut, as did the Senator from New Jersey, I am sure, voted, for example, for the State Department reauthorization, the Department of Energy reauthorization, where we simply reassigned executive responsibilities as part of our constitutional power.

Finally, I, too, was there for the Attorney General yesterday. The Senator from Connecticut may remember, I asked her, in my concluding questions, whether or not the Justice Department had the resources to deal with these cases. She was confident they would and could deal with these cases so that justice was done and there was no diminution of effort in the pursuit of justice in these cases.

I simply want the RECORD to reflect that her answer was affirmative. I thank the Senator from Connecticut for yielding and apologize to the Senator from Iowa for taking the time.

Mr. LIEBERMAN. I thank my friend from New Jersey. I will speak for a moment more and then yield to the Senator from Iowa.

I think the Attorney General yesterday was asked two different questions, quite different, and didn't give inconsistent answers, but I think my interpretation was, she said that an amendment of this kind would be unwise. She did say that if it was agreed to, the Department, as the Senator from New Jersey has indicated, would be capable of picking up these cases.

Secondly, I want to indicate that I am not reaching a constitutional judgment that this is a violation of separation of powers. I have tried to be careful in my comments to state that. I do think it evokes separation of powers concerns and values. Taking the example that the Senator from New Jersey gives of reauthorization of State Department or Energy Department Offices, to me this would be a little bit like abolishing an assistant secretaryship in one of those Departments because we didn't like the work that the particular Assistant Secretary was doing and saying, turn it over to the Secretary of State or Secretary of Energy and let them do it the way they want to do it. While we have the power to do that and we have the power of the purse, it would set a precedent that could come back to haunt us.

I thank my colleagues, I thank my friend from New Jersey, and I yield to the Senator from Iowa.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I have listened with great interest to the arguments made by the author of the amendment, Senator TORRICELLI—of course, I am a cosponsor of the amendment—and the very lucid and well thought out arguments of my friend from Connecticut.

First I will respond to my friend from Connecticut by saying that he used the word ''ill-timed'' on a number of occasions in his argument. I quite disagree with my friend on that. I believe this is perfect timing.

What are we talking about here? We are on a supplemental appropriations bill. We are making some cuts someplace. We are spending money. We are trying to reach some emergency spending moneys that we need, and we are all looking for places to save money. Here is one place we can save some money. That is what this is about, too.

If there is one thing I continually hear from my constituents in Iowa and from people around the country, it is, ''How much more money are you going to pour down that rat hole?'' How much more money are we going to spend on these special prosecutors that go on and on and on? I think the timing is very appropriate right now, when we are on an appropriations bill talking about how much money we are spending and how much money we can save to meet critical needs in this country. I think it is very appropriately timed on this legislation.

Mr. President, the Starr investigation has been traumatic for this country, it has been divisive for our national fabric, and these gaping wounds need to be healed. The focus so far has been on allowing the independent counsel statute to lapse on the assumption that it will put an end to the episode. In reality, that is far from the case.

The independent counsel statute will lapse on June 30, but it does not put an end to the ongoing investigations. Keep in mind that the amendment offered by the Senator from New Jersey and others, of which I am a cosponsor, basically goes just to those investigations that have been ongoing for over 3 years. There are a couple that are less than 3 years. Our amendment does not touch them.

We are only answering the three—actually there are four. The Senator from Connecticut mentioned the fourth one. It caught me by surprise and I had to look it up. It turns out the fourth one is an ongoing investigation into Secretary of HUD Samuel R. Pierce. If I am not mistaken, he was Secretary of HUD under Ronald Reagan. They still have an investigation going on him. It just goes to show you, these things just go on year after year after year.

What we are saying is, if we have an independent counsel who has been operating for more than 3 years, in 6 months—by the end of this year—they have to close up shop and turn it over to the Justice Department.

We are not saying that no one will be let off. No appeal is going to be dropped. No valid investigative lead will be abandoned. The cases will be pursued in keeping with Justice Department rules by some of the most experienced prosecutors in the country.

Again, I point out there is little doubt that these cases will be under scrutiny internally at the Justice Department, certainly by the media and by the Congress.

We have a President, an Executive, of one party, Congress run by another party. I daresay there are going to be some checks and balances here. Anyone who thinks this can be smothered by the Justice Department does not recognize how this town works. What it will do is save us a lot of money, and that is what I keep hearing about from my constituents.

Until I started looking at this independent counsel law during the impeachment trial we had in the Senate, I had not paid all that much attention to it. In fact, I admit freely, when the extension passed in 1993, I was one of those who voted to extend it. I wish now I had not, because I think it has run amok. That is why I will be in favor of letting it expire on June 30.

In looking at this, I was trying to find out how Ken Starr could rack up a bill between $40 million and $50 million in less than 3 years. How could that be possible?

I began trying to find the line items where he was spending the money. Guess what I found out. We cannot get

that information. I can go to the Department of Agriculture and I can find out where every last nickel they spend goes. I can go to the Defense Department and find out exactly where every nickel they spend goes. They have to line item everything. That is true of any branch of Government but not of the independent counsel. Believe it or not, you cannot find out where he is spending the money. All they have to put it under is general broad categories, summaries.

For example, here is a bill, and this came from the Los Angeles Times. They said they paid $30,517 for psychological analysis of evidence in the suicide of former White House lawyer Vincent Foster by the same Washington group that looked into the untimely death of rock musician Kurt Cobain. What is that all about?

Then there is $370 a month in parking. We do not know who for or what for, but it is there, $370 a month. Here is $729,000 on five private investigators who were hired to supplement dozens of FBI agents. What did it go for? Where did that money go? We do not know. Here is a report that Mr. Starr paid $19,000 a month in rent at a luxury apartment building for staff members—19,000 bucks a month? I would like to know what he was renting. Again, we do not know because we cannot get into the line items.

That is just another glaring deficiency in this huge loophole that we opened with the independent counsel law. It is, in fact, a fourth branch of Government with no checks and balances and no accountability to Congress.

Despite the fact that Mr. Starr made his referral to Congress, it was considered and dispensed with through a long, tortuous episode in the House and long, tortuous episode in the Senate with the impeachment trial. According to newspaper accounts, Mr. Starr has no plans to wind things down. In fact, there are indications he may keep the investigation going not for 1 year, not for 2 years, but for 3 more years. That is why we are offering our amendment; cut funding in 6 months for any independent counsel investigation that has been ongoing for 3 years or more. That is enough time.

The Starr investigation has been going now for almost 5 years, and I think we are pretty darn close to $50 million, maybe more by now. We are just saying, during these 6 months, to Mr. Starr and these other independent counsel, even the one who is investigating Samuel Pierce from the Reagan administration, it is time to put their books together and make any referrals for any additional action or investigations to the Attorney General.

This deadline gives plenty of time to the independent counsel to finish their work. And, again, if there is any problem, the American people can rest assured that these cases will be handled by a specialized office of the Justice Department that has been doing this for over 20 years.

I think we have all concluded that the independent counsel law is fatally flawed. Under these circumstances, it would be a mistake to let the Starr investigation continue on indefinitely without any end date, without any oversight, without any rein on prosecutorial excess, without any rein on money.

I think we ought to listen to people and let the country move on. Mr. Starr has had long enough to investigate Whitewater and Monica Lewinsky. The Senate considered the charges against the President. We dispensed with them. I think 6 months is long enough to wrap things up. Make the referrals he deems necessary so we can put this behind us.

Again, I just point out, Mr. President, that Mr. Starr is sort of like a gold-plated energizer bunny—his investigation keeps going on and on, and the money just keeps going up and up and up.

Twenty independent counsel investigations have been initiated since 1978, at a cost estimated at nearly $150 million. Here is one. Donald Smaltz began his $17 million investigation of former Ag Secretary Espy in November 1994. He filed 30 counts. The jury threw them all out. The jury threw them all out. He spent $17 million. What happened? Well, it sure ruined Agriculture Secretary Espy, I can tell you that; but the jury found him innocent—$17 million.

David Barrett began his investigation, which I understand is now around $7 million, of former Housing Secretary Cisneros in May of 1995.

So the bills just keep getting racked up. The independent counsel keep going, and the people of this country are wondering, What in the heck are we doing? Here we are on an appropriations bill, we are trying to scrounge every nickel, every penny we need to meet the critical needs of people in this country. We have it in the farm sector. We have a lot of critical needs in rural America, I can tell you that right now, with the devastating crop prices and livestock prices. And we are looking for money for some assistance for farmers. We can't find it. Yet we have millions for Ken Starr and for all these other investigators to just keep living in luxury apartments and running up the bills to the taxpayers with no accountability.

So that is why I think we have to do this. Six months is long enough. I do not know what the Governmental Affairs Committee will report out, when they report it out. It is my own observation that when this law expires on June 30 there are not the votes here to extend it. Some people may want to extend it, but I do not think there will be the 60-plus votes necessary to extend that law. But that does not make any difference; the ones that are going on now can just keep right on going. I just think it is time to heed the common wisdom of the people of this country and shut the spigot off and turn it over to the Justice Department by the end of the year.

I yield the floor.

Mr. THOMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. Mr. President, we at the Governmental Affairs Committee are, indeed, conducting hearings with regard to the independent counsel. The criticisms of the Independent Counsel Act have been many and well known for many, many years. The Act was passed in 1978. I was one of the ones who was critical of the idea that you could set somebody up totally separate and outside the process and not accountable in the very beginning.

A lot of my friends now who criticize the Act, of course, thought it was a very good idea back when the independent counsel were investigating the other party. All of the criticisms about Mr. Starr, of course, were applicable to Mr. Walsh's investigation, which went on longer, cost more than Mr. Starr's investigation back during previous administrations.

We should not look at this in terms of who is investigating whom. As I say, I have been critical of it all along. I still am. But the question is, Where is the power going to reside if you have a real conflict of interest? If you have a President of the United States who has been accused of serious misconduct, can his appointee, the Attorney General, investigate that with any credibility? I think for most of the Attorneys General we have had throughout our history, the answer is, yes, they have been people of great integrity. But what about the perception? Is that a good idea?

So if we do not have an independent counsel, we give it back to the employee of the President to investigate the President? That is an inherent conflict of interest. Attorney General Reno herself, the Department, the administration back in 1993, all agreed that was a bad idea, and they were for the independent counsel. Now, recent events, and Mr. Starr's criticism, has caused them to reverse on a dime and say that they have discovered structural defects in the statute.

The statute has been basically the same since 1978. They are just now discovering those structural defects in the statute. It looks an awful lot like the question of, Whose ox is being gored? But we are trying to stay away from too much of that.

I have been critical, of course, of this Justice Department in not appointing an independent counsel in the case that I feel calls out for it the most. We have a classic case with regard to the campaign financing scandal—one of the largest scandals we have ever had in this country—a classic case for why the independent counsel law was passed. Yet all these others have been appointed, but when it comes to the big guy, we do not have an appointment in that particular case.

But, that aside, we are trying to examine all sides of this: Should we continue the law? Should we not continue the law? And if we continue the law, should we modify it? All those are possibilities. All those are on the table. And we do not know what the result is going to be yet.

So along comes this amendment that is on the floor now—a terribly bad idea. Regardless of whether you are for the independent counsel statute or against the independent counsel statute, the idea that Congress should step in, either now, 3 months from now, or 6 months from now, and call to a halt investigations that have been going on for a year—not just Mr. Starr's investigations but other independent counsel—and say, ''Congress knows best; we're going to get into the middle of these criminal investigations, and although we set up the independent counsel law that was passed in this U.S. Congress—they were duly appointed—we're going to call a halt to them because we don't like the people who are being investigated; we don't like the amount of money that you're spending,'' or all those newfound criticisms that we have been silent on up until now since 1978, is an extraordinarily bad idea.

The Congress has already determined that even if the independent counsel law lapses, these investigations that are ongoing should continue.

The Attorney General can ask the three-judge panel to call a halt to an investigation if she believes that it is justified. She has not done that. In fact, the Attorney General does not support this amendment. This amendment would say: Let's call a halt to all of it and give it back to the Attorney General.

I asked the Attorney General yesterday, in Governmental Affairs, just one question: ''As a matter of policy, do you think it would be wise for Congress to terminate current ongoing investigations, regardless of what happens after that?'' Attorney General Reno's response: ''I think since these investigations are underway, they should probably be concluded under the current framework.'' So she doesn't support this amendment, an extraordinarily bad idea.

So it goes back to the Attorney General under this amendment, as I say, not just Mr. Starr's investigation, but the investigation with regard to Mr. Cisneros, for example, others, the Webb Hubbell investigation. All of that would be brought to an end and sent back to the Attorney General.

And she has two choices: She can either keep it and dispose of it herself, at a time when that Department probably has less credibility than it has had in many, many years; or she can launch a new investigation and call for a new special counsel to come in—extraordinarily expensive, wasteful, nonsensical, Mr. President; a very, very bad idea, whether or not you are for or against the extension of the Independent Counsel Act.

Congress should not be interjecting itself to terminate investigations at midstream when there is also a mechanism, if it is justified, for that to be done. So I sincerely hope that my colleagues will join me in opposing this amendment.

I yield the floor.

Mr. STEVENS. Mr. President, I intend to move to table this amendment. It is a very serious subject and we have had extensive hearings before the Governmental Affairs Committee, which Senator THOMPSON chairs. I do believe we will have to address this subject at a later time in the Senate, but this is not the time to do it.

Therefore, I move to table that amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. I ask unanimous consent there be 2 minutes equally divided for explanation of the second amendment prior to the vote on the second amendment, that is, this amendment I have just moved to table.

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

Mr. STEVENS. Mr. President, I ask unanimous consent for 2 minutes between the two votes to explain the process that will occur after that vote.

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

Mr. STEVENS. Is all time expired?

The PRESIDING OFFICER. All time has expired.

VOTE ON AMENDMENT NO. 89

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

The bill clerk called the roll.

Mr. NICKLES. I annouce that the Senator from Arizona (Mr. MCCAIN), is necessarily absent.

The result was announced—yeas 69, nays 30, as follows:

[Rollcall Vote No. 54 Leg.]

YEAS—69

Abraham	Feinstein	Lincoln
Akaka	Fitzgerald	Lugar
Allard	Frist	Mack
Baucus	Gorton	McConnell
Bayh	Graham	Mikulski
Bennett	Gramm	Moynihan
Biden	Grams	Murkowski
Bingaman	Gregg	Murray
Bond	Hagel	Nickles
Boxer	Harkin	Reed
Breaux	Hutchison	Reid
Brownback	Inouye	Robb
Bryan	Jeffords	Roberts
Byrd	Johnson	Rockefeller
Campbell	Kennedy	Roth
Chafee	Kerrey	Sarbanes
Cleland	Kerry	Schumer
Cochran	Kohl	Smith (OR)
Daschle	Landrieu	Stevens
Dodd	Lautenberg	Thomas
Domenici	Leahy	Voinovich
Durbin	Levin	Warner
Edwards	Lieberman	Wyden

NAYS—30

Ashcroft	Enzi	Santorum
Bunning	Feingold	Sessions
Burns	Grassley	Shelby
Collins	Hatch	Smith (NH)
Conrad	Helms	Snowe
Coverdell	Hollings	Specter
Craig	Hutchinson	Thompson
Crapo	Inhofe	Thurmond
DeWine	Kyl	Torricelli
Dorgan	Lott	Wellstone

NOT VOTING—1

McCain

The motion to lay on the table the amendment (No. 89) was agreed to.

Mr. STEVENS. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. The Senator from Alaska.

AMENDMENT NO. 92

Mr. STEVENS. Mr. President, under the agreement we have, there will be 1 minute on each side to explain the next amendment. Senator TORRICELLI will be first with that minute. Following that, I have 2 minutes to explain to the Senate what we have to do after this vote.

The yeas and nays have been ordered, Mr. President. I did order the yeas and nays.

But before that vote, Senator TORRICELLI is to be recognized for 1 minute. It is only 1 minute. I hope we could have order so the Senate can hear these Senators.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. TORRICELLI. Mr. President, before the Senate is the question of when the independent counsel statute expires. There is still the issue of the appropriations, and whether the poor continuing independent counsel will be able to spend, not just this year, but on into the future, $10 million, $20 million, $100 million.

We begin the orderly process, on 6-month notice, of moving those cases into the Public Integrity Section of the Justice Department where the Attorney General has assured us she is prepared to receive the cases. They will be pursued professionally and prosecuted to the full extent of the law. All we have provided for is the orderly transfer of those cases. Justice will be done. Every case will be pursued. It will be done within the Justice Department, and at long last there will be accountability of how much we spend.

If you have been asked by constituents: Isn't $50 million too much? Will it be $100 million? Will it be $200 million? This is the answer to your constituents' inquiry. It is control, but it also assures justice within the Department.

The PRESIDING OFFICER (Mr. FITZGERALD). The time of the Senator has expired. The Senator from Tennessee.

Mr. THOMPSON. Mr. President, the Senate has previously determined if, in fact, the Independent Counsel Act is allowed to expire, investigations that are currently underway will be ongoing. Why did the Senate decide that? The obvious reason is it is a bad idea for the Congress to be terminating investigations in midstream and sending them back to Justice.

This amendment would reverse that previous determination that this body has made. They would send it back to Justice with choices: They would either have to shut down the investigation, make the determination themselves, which would be terrible in terms of appearance, or they would have to continue the investigation and bring somebody else in to do it, which would be terrible in terms of efficiency.

I asked Attorney General Reno in the Governmental Affairs Committee what she thought about it. She said, ''I think, since these investigations are underway, they should probably be concluded under the current framework.''

I suggest this is a very bad idea and should be defeated.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I ask for 2 minutes here to inform the Senate what procedure I hope we will follow at this time. We have a list of amendments here, some 70 amendments, but I do not expect them all to be offered. Particularly, I do not expect them all to be offered when you see what is going to happen to this amendment. I say that advisedly, after being advised by the proponents.

But, Mr. President, it is going to be my policy as the majority manager of this bill to move to table every amendment that is not cleared on both sides. This is an emergency measure. We are going home a week from Friday. Next week is all taken up with the budget. We either get this done now so we can go to conference with the House on Monday or Tuesday and bring it back before Friday, or we might as well forget about it.

So I respectfully inform the Senate I shall move, as the manager, to table every amendment that does not have bipartisan support. So, if you have an amendment on that list and you do not want to lose on it, now is the time to take it off.

Mr. GRAMM addressed the Chair.

Mr. STEVENS. Mr. President, I ask unanimous consent the yeas and nays that have been ordered be vitiated, and we take a voice vote on this amendment.

The PRESIDING OFFICER. Is there objection?

Mr. GRAMM. Reserving the right to object, may I pose a question to the Senator?

Mr. STEVENS. Yes.

Mr. GRAMM. This is a motion to table the amendment?

Mr. STEVENS. Yes. The Senator will see we are going to voice vote it and it will carry.

Mr. GRAMM. With that assurance from the manager of the bill, I do not object.

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

Mr. STEVENS. I thank the Chair.

THE PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the motion.

The motion to lay on the table the amendment (No. 92) was agreed to.

Mr. STEVENS. 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. STEVENS. 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. STEVENS. Mr. President, we are prepared to go through any amendment that is going to be offered and give our advice as quickly as possible as to whether or not we will support that amendment. I urge Senators to bring the amendments to us. Senator BYRD and I will go over them immediately, and we can determine how many of these amendments we might have to vote on. As soon as the leader has made his request for a time agreement, we will go further into the operation here of the Senate before we finish this bill.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I am curious to know what amendments might be coming up. Is there a list available we can look at? Obviously, they are not all going to be approved. It is my understanding, from what the manager said, if any amendment is objected to, then he will include that amendment in those to be tabled by voice vote?

Mr. STEVENS. I don't know about the voice votes, Mr. President, if the Senator will yield. I do know we will have a list here very soon. The leader will present it. That is what we are waiting for now. I do say we have a tentative list. We are trying to winnow that down, but if we can get agreement on that list, I think then we can proceed. I don't know whether we can get agreement on the list and that is what we are waiting for. But we will show you the list as soon as possible.

Mr. CHAFEE. Should we wait around here?

Mr. STEVENS. We should have that list within about 20 or 30 minutes.

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

The PRESIDING OFFICER. The clerk will 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.

PRIVILEGE OF THE FLOOR

Mr. THURMOND. I ask unanimous consent the privilege of the floor be granted to Ernie Coggins, a legislative fellow, during the pendency of the emergency supplemental appropriations bill.

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

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

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

AMENDMENTS NOS. 93, 94, 95, 96, 97, 98, EN BLOC

Mr. STEVENS. Mr. President, I am going to send to the desk a package of amendments.

The first is an amendment by Senators HELMS and MCCONNELL directing the Office of Inspector General, Agency for International Development, to audit expenditures for emergency relief activities.

The second is an amendment by Senator REID to provide an additional $500,000 for technical assistance related to shoreline erosion at Lake Tahoe, NV.

The next is an amendment by Senator KYL to provide an additional $5 million for emergency repairs to Headgate Rock hydroelectric project in Arizona.

Next is an amendment by Senators DOMENICI and REID making a rescission of $5.5 million to funds available to the Corps of Engineers to offset additional funds provided in the previous two amendments.

Next is an amendment by Senators JEFFORDS and BINGAMAN directing the Agency for International Development to undertake efforts to promote reforestation and other environmental activities.

Last is an amendment by Senator LEVIN allowing the President to dispose of certain material in the National Defense Stockpile.

These have all been cleared on both sides, and they are all fully offset.

I send the package to the desk and ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the amendments.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS), for Mr. HELMS, Mr. MCCONNELL, Mr. REID, Mr. KYL, Mr. DOMENICI, Mr. JEFFORDS, Mr. BINGAMAN, and Mr. LEVIN), proposes amendments Nos. 93 through 98, en bloc.

Mr. STEVENS. Mr. President, I ask unanimous consent that the reading of the amendments be dispensed with.

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

The amendments are as follows:

AMENDMENT NO. 93

(Purpose: Relating to activities funded by the appropriations to the Central America and the Caribbean Emergency Disaster Recovery Fund)

On page 8, line 22, insert before the proviso the following: ''*Provided further*, That up to $1,500,000 of the funds appropriated by this heading may be transferred to 'Operating Expenses of the Agency for International Development, Office of Inspector General', to remain available until expended, to be used for costs of audits, inspections, and other activities associated with the expenditure of funds appropriated by this heading: *Provided further*, That $500,000 of the funds appropriated by this heading shall be made available to the Comptroller General for purposes

of monitoring the provision of assistance using funds appropriated by this heading: *Provided further,* That any funds appropriated by this heading that are made available for nonproject assistance shall be obligated and expended subject to the regular notification procedures of the Committees on Appropriations and to the notification procedures relating to the reprogramming of funds under section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1):''.

AMENDMENT NO. 94

Insert in the appropriate place:

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

Corps of Engineers—Civil

CONSTRUCTION, GENERAL

For an additional amount for ''Construction, General,'' $500,000 shall be available for technical assistance related to shoreline erosion at Lake Tahoe, NV caused by high lake levels pursuant to Section 219 of the Water Resources Development Act of 1992.

AMENDMENT NO. 95

Insert in the appropriate place:

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

Water and Related Resources

For an additional amount for ''Water and Related Resources'' for emergency repairs to the Headgate Rock Hydroelectric Project, $5,000,000 is appropriated pursuant to the Snyder Act (25 U.S.C.), to be expended by the Bureau of Reclamation, to remain available until expended.

AMENDMENT NO. 96

Insert in the appropriate place:

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

Corps of Engineers—Civil

CONSTRUCTION, GENERAL

Of the amounts made available under this heading in P.L. 105–245 for the Lackawanna River, Scranton, Pennsylvania, $5,500,000 are rescinded.

AMENDMENT NO. 97

On page 9, line 10 after the word ''amended'' insert the following: '': *Provided further,* That the Agency for International Development should undertake efforts to promote reforestation, with careful attention to the choice, placement, and management of species of trees consistent with watershed management objectives designed to minimize future storm damage, and to promote energy conservation through the use of renewable energy and energy-efficient services and technologies: *Provided further,* That reforestation and energy initiatives under this heading should be integrated with other sustainable development efforts''.

AMENDMENT NO. 98

(Purpose: To authorize the disposal of the zirconium ore in the National Defense Stockpile)

On page 58, between lines 15 and 16, insert the following:

TITLE V—MISCELLANEOUS

SEC. 5001. (a) DISPOSAL AUTHORIZED.—Subject to subsection (c), the President may dispose of the material in the National Defense Stockpile specified in the table in subsection (b).

(b) TABLE.—The total quantity of the material authorized for disposal by the President under subsection (a) is as follows:

Authorized Stockpile Disposal

Material for disposal	Quantity
Zirconium ore	17,383 short dry tons

(c) MINIMIZATION OF DISRUPTION AND LOSS.—The President may not dispose of material under subsection (a) to the extent that the disposal will result in—

(1) undue disruption of the usual markets of producers, processors, and consumers of the material proposed for disposal; or

(2) avoidable loss to the United States.

(d) RELATIONSHIP TO OTHER DISPOSAL AUTHORITY.—The disposal authority provided in subsection (a) is new disposal authority and is in addition to, and shall not affect, any other disposal authority provided by law regarding the material specified in such subsection.

(e) NATIONAL DEFENSE STOCKPILE DEFINED.—In this section, the term ''National Defense Stockpile Transaction Fund'' means the fund in the Treasury of the United States established under section 9(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(a)).

Mr. STEVENS. Mr. President, I ask unanimous consent that the amendments be agreed to en bloc.

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

The amendments (Nos. 93, 94, 95, 96, 97, and 98) were agreed to.

Mr. STEVENS. I move to reconsider the vote by which the amendments were agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT AGREEMENT

Mr. LOTT. Mr. President, I ask unanimous consent that the following amendments be the only remaining first-degree amendments in order to S. 544, with the exception of the pending amendments; that they be subject to relevant second-degrees and that no other motions, other than motions to table, be in order.

I submit the list and, Mr. President, I believe the Democratic leadership has a copy of this list also.

The list of amendments is as follows:

AMENDMENT LIST FOR SUPPLEMENTAL

Domenici:
1. New Mexico southwest border HIDTA.
2. Oil/gas loan guarantee.
Specter/Durbin: Unfair foreign competition/trade fairness.
Hutchison: Kosovo.
Robb: Cavalese, Italy claims.
Stevens:
1. Non-Indian health service.
2. Glacier Bay compensation.
3. Relevant.
4. Relevant.
Hatch: Ethical standards for Federal prosecutors.
Gregg: Fishing permits.
Gorton:
1. Hardrock mining.
2. Power generation equipment.
Brownback/Roberts: Natural gas producers.
DeWine:
1. Counterdrug research.
2. Counterdrug funding.
Smith (NH): Kosovo.
Enzi:
1. States' rights.
2. Livestock assistance.
3. Livestock assistance.
4. Relevant.
Murkowski: Glacier Bay.
Ashcroft: Emergency assistance to USDA.
Bond:
1. Hog producers.
2. 1998 disaster.
Jeffords: Relevant.
Gramm:
1. Strike emergency designation.
2. Steel loan program (4 amendments).
3. Offsets (4 amendments).
4. Relevant.
Kohl: Bankruptcy technical correction.
Lincoln:
1. Debris removal.
2. CRCT.
Gorton: Loan deficiency payments.
Dorgan: Shared appreciation amendment.
Kohl: NRCS conservation operation funding.
Lott: 3 relevant amendments.
Lott: Rules.
DeWine: Steel.
Leahy/Jeffords: Funding for apple growers.
Cochran:
1. Relevant.
2. Relevant.
Grams: $3.4 million transfer within HUD.
Burns: Sheep improvement center.
Nickles: Emergency.
Craig: Agriculture sales to Iran.
Biden: Relevant.
Bingaman:
1. SoS Home care.
2. Energy related.
3. Ag related.
Byrd:
1. Relevant.
2. Relevant.
3. Relevant.
Daschle:
1. Ellsworth AFB.
2. Missouri River.
3. Firefighters.
4. Relevant.
5. Relevant.
6. Relevant.
7. Tobacco recoupment.
Dorgan: Grain sale to Iran.
Durbin:
1. Medicaid recoupment.
2. Kosovo (2nd degree).
3. Relevant.
Edwards: TANF.
Feinstein: WIC increase.
Feingold: Relevant.
Harkin;
1. Tobacco.
2. Relevant.
3. Relevant.
4. Relevant.
Johnson:
1. Relevant.
2. Relevant.
3. Relevant.
Kerry: Hard rock mining.
Kerrey: Flood control—Corps of Engineers.
Landrieu:
1. Central America—disaster fund.
2. Immigration.
3. Immigration.
Leahy: Apple growers.
Levin: Relevant.
Murray: Rural schools—class size fix.
Reed: OSHA Small farm rider.
Robb: Ski gondola victims.
Torricelli: Relevant.
Graham:
1. Micro Herbicide.
2. Sec. 3002—Counterdrug.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. Mr. President, reserving the right to object, and I will not, I will just describe the list for our colleagues to indicate that there are approximately 45 Republican amendments and approximately 35 Democratic amendments on the list just submitted, but I do not object. I support the request made by the majority leader.

Mrs. HUTCHISON. Reserving the right to object, I want to make sure I understand what the majority leader has put forward. The amendments would be amendable with relevant second-degrees; is that correct? Would substitutes also be allowed on amendments?

Mr. LOTT. Mr. President, in answering the question of the Senator from Texas, all first-degree amendments that are listed would be subject to relevant second-degree amendments, but if they are not on that list, then they would not be subject to relevant second-degree amendments. I guess that a second-degree amendment in the nature of a substitute would be in order.

The PRESIDING OFFICER. If it is relevant, it would be in order.

Mrs. HUTCHISON. Thank you.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Did we get agreement to that request? I will go ahead and complete the entire request. Let me say on the list of amendments, Senator DASCHLE is correct. There are apparently 80-something amendments on that list. I assume that a lot of them are defensive in nature and some of them can very likely be accepted. We have the two best managers, probably, in the Senate handling this bill—the Senator from Alaska, Mr. STEVENS, and the Senator from West Virginia, Mr. BYRD. I am sure they will go through that list like a knife through hot butter. But there are some on that list that certainly will have to be dealt with in the regular order. We will work on our side to get that list worked down, just as I am sure Senator DASCHLE will.

Mr. President, I further ask unanimous consent that following the disposition of the above-listed amendments, the bill be advanced to third reading and passage occur, all without any intervening action or debate. I further ask that the bill remain at the desk, and when the Senate receives the House companion bill, the Chair automatically strike all after the enacting clause, insert the text of S. 544, as amended, the House bill be advanced to third reading and the bill be passed, all without intervening action or debate.

I further ask that the Senate insist on its amendments, request a conference with the House, and the Chair be authorized to appoint conferees on the part of the Senate.

For the information of those who might be wondering about that, the House has not yet acted on this supplemental. It is anticipated they will not act until Tuesday or Wednesday of next week. Therefore, we do not want to run this to final completion. This will allow us to stop at a critical point and wait for the House action and then go straight to conference.

Finally, I ask that the Senate bill be placed back on the Calendar and final passage occur no later than 11 a.m. on Friday, March 19, and that paragraph 4 of rule XII be waived.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. Mr. President, I have just noted that there are approximately 90 amendments. I agree with the characterization of the majority leader that we have the two finest managers the Senate could put forth as we work through this bill, and I am sure that they will cut through those amendments like a knife through hot butter. As eternal an optimist as I am, I am still not optimistic at this point that we can complete work on all 90 amendments prior to 11 o'clock, so I will object.

I do ask for the cooperation of our colleagues in the hopes that we can finish this bill. Obviously, there is a great deal of work that yet needs to be done. If we work this afternoon and work hard, perhaps as early as this evening we might be able to finish, but let's give it our best effort and revisit the question of when we can go to final passage. So I object.

Mr. LOTT. Mr. President, I revise my unanimous consent request. It is the same as earlier stated, but I will delete the last phrase with regard to these words: ''And final passage occur no later than 11 a.m. on Friday, March 19, and that paragraph 4, rule XII, be waived.'' Therefore, it will conclude with these words: ''Finally, I ask that the Senate bill be placed back on the Calendar.''

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

Mr. LOTT. I thank Senator DASCHLE. Mr. President, I yield the floor.

Mr. STEVENS. 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. SPECTER. 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. SPECTER. Mr. President, there is likely there will be an amendment offered relating to Kosovo. I would like to speak briefly on that subject, if I may, in the absence of any other Senator on the floor.

I note the distinguished chairman of the Appropriations Committee has just come to the floor. Does the chairman wish to take the floor?

Mr. STEVENS. Will the Senator yield?

Mr. SPECTER. I do.

Mr. STEVENS. Mr. President, the Kosovo amendment has been set aside temporarily. The meeting is going on in the leader's office. I wonder if the Senator knows that is going on and should participate in that.

Mr. SPECTER. I thank the chairman. I will participate. I want to make just a couple of comments.

Mr. President, the Kosovo matter again raises the issue about the respective power of Congress under the Constitution, the sole authority to declare war, and the authority of the President as Commander in Chief. This is a recurrent theme of consideration.

Within the course of the past year, we faced the issue of airstrikes, which were anticipated against Iraq in February of 1998. At that time, I wrote the President, and spoke on the floor of the Senate calling on the President to seek congressional authority, if action was contemplated there, because an airstrike was an act of war and only the Congress of the United States has the authority to involve the Nation in war.

There are circumstances where the President has to act in emergency situations, where as Commander in Chief he must act in the absence of an opportunity for congressional consideration. At that time, there was adequate opportunity for congressional consideration. However, it was not undertaken, and that incident passed without any military action. We then had the events of this past mid-December where airstrikes were launched on Iraq. Again, on that occasion, I had written to the President of the United States urging that he make a presentation to the Congress as to what he wanted to do. Again, airstrikes constitute an act of war, and we have learned from the bitter experience of Vietnam that we cannot successfully undertake a war without the support of the American people. And the first action to obtain that support is from the Congress of the United States.

We have now been in Bosnia for a protracted period of time. Originally, this was supposed to be a limited engagement. That has been extended. Congress enacted legislation to cut off funds under certain contingencies. That has all lapsed, and we remain in Bosnia with very substantial expenditures. Fortunately, there has not been military action. So although there have been some casualties, it has not been as a result of a conflict.

We are looking at a situation in Kosovo which is enormously serious. I, again, urge the President of the United States to make a presentation to the Congress as to what he would like to undertake. The House of Representatives, by a fairly narrow vote, authorized some limited use of force in Kosovo. The headline featured was ''President Gets Support That He Had Not Asked For''. Presidents are very reluctant to come to the Congress with a request for authorization, because that may be interpreted to dilute their authority to act as Commander in Chief unilaterally without congressional authority.

I had filed a resolution on the use of force with missile and airstrikes, which would involve minimal risk and strike where there are no U.S. personnel placed in harm's way. I did that really to stimulate debate by Congress on what authorization there should be. But it is more than a matter of notification. The administration talks of notification, and very frequently even notification is a virtual nullity coming at a time when Congress has no opportunity to really be involved in the decision making process.

I can recall back in mid-April of 1986 when President Reagan ordered the airstrike on Libya. The consultation was had—really notification, not consultation, the difference being that if you notify, you are simply telling Congress what has happened. If you consult, that has the implication that there may be some response from the administration depending on the congressional reaction. Both are vastly short of authorization, which is what the Constitution requires on a declaration of war.

But, in any event, in mid-April of 1986, congressional leaders were summoned to be told that the planes were in flight. There was a meeting with many Senators shortly after the attack occurred, there was quite an interesting debate between the Senator from West Virginia, Senator BYRD, and Secretary of State Schultz as to whether Congress could have had any effect, or whether congressional leaders could have had any effect, if they wanted to have an impact on that situation.

But when we take a look at what is happening now in Kosovo with a massing of forces, and we take a look at the terrain, we take a look at the air defense, we may be involved in more than missile strikes. And it is one thing to support missile strikes. It is quite another thing to support airstrikes. It all depends upon the facts and the circumstances in situations where the Congress needs to know more, and the American people need to know a great deal more.

So it is my hope that the President will address this issue, will tell the Congress of the United States what he would like to do in Kosovo, seek authorization from the Congress, and tell the American people what he has in mind.

I know from my contacts in my State of 12 million people that Pennsylvanians do not have much of an idea about what is involved in Kosovo. And there are very, very serious ramifications and questions as to what our posture would be with NATO, if we do not join NATO forces on something which is agreed to there. But, when nations of NATO act, they do not have our Constitution. They are aware of our Constitution. They are aware of the provisions of our Constitution, that only the Congress can declare war.

So if there is not congressional support, if there is not congressional action, they are on notice that they do not have a commitment in the Congress of the United States, a Constitutional commitment in the United States, to act. What the President may do unilaterally, of course, is a matter which has always been a little ahead of the process. It is a fact that frequently Congress sits by and awaits Presidential action.

If it is a success, fine. If it is a failure, then there may be someone to blame—the President, not the Congress.

But it is my hope the President will come to the Congress, tell the Congress what it is he wants, tell the American people what it is the President thinks ought to be done so we can have an understanding as to what is involved here. So we can have an understanding as to what the risks are, what the objectives are, what the end game is, and what the exit strategy is. Then we can make a rational decision.

I yield the floor.

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

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

The bill clerk proceeded to call the roll.

Mr. STEVENS. 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. STEVENS. Mr. President, I have a progress report for the Senate. Our chief of staff, Mr. Cortese, has just informed me that we have approximately 20 of the 70 amendments that were listed on the agreement almost ready for presentation for approval on a bipartisan basis.

I am making this statement to appeal to Senators who have amendments on the list to bring them to our staff so we can review them now, and I hope that when we explain to them why we cannot take them, they will withdraw their amendments.

I am hopeful we can pursue a process and find a way to complete action on this bill by noon tomorrow. I do hope that will happen.

I will be able to present those other amendments to the Senate for approval on a bipartisan basis probably within an hour or so. Meanwhile, we cannot proceed all the way through the amendments unless the Senators give us their amendments to review. I know there are two committee meetings at this time, Mr. President. They are slowing down this process, and they are both trying to get bills out in order that they may be considered next week. We will just have to bear with the situation for a few more hours.

We intend to keep going on this bill, and that may mean late tonight, if necessary. If we had the cooperation of the Senate in presenting these amendments, I think we could tell the Senate by 6 or 6:30 the number of votes we will have to have and when they will occur.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate stand in recess subject to the call of the Chair, which will occur about 5 o'clock.

There being no objection, the Senate, at 4:37 p.m., took a recess subject to the call of the Chair.

The Senate reassembled at 5:31 p.m., when called to order by the Presiding Officer (Mr. SMITH of Oregon).

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, for the information of the Senate, I have been notified that we can ask unanimous consent to remove from the agreement list of amendments for this bill the Landrieu amendments on immigration, the Edwards amendment on TANF, and the Specter amendment on unfair foreign competition. I ask unanimous consent they be deleted.

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

Mr. STEVENS. Mr. President, these amendments have been withdrawn after consultation. I congratulate the Senators for their willingness to work with us and urge other Senators to come forward and tell us if they do not intend to offer their amendments. We are very close to proceeding with a package of amendments here. There is one last problem.

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

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

AMENDMENTS NOS. 100 THROUGH 110, EN BLOC

Mr. STEVENS. Mr. President, I shall send to the desk a package of amendments. Once again, they are amendments that have been cleared on both sides with the legislative committees as well as the subcommittees of appropriations with respect to the various jurisdictions.

The first amendment is by Senator DOMENICI to expand the jurisdiction of the State of New Mexico's portion of the Southwest Border High-Intensity Drug Trafficking Area.

Next is an amendment by Senator ROBERTS to provide relief from unfair interest and penalties on refunds retroactively ordered by the Federal Energy Regulatory Commission.

Next is an amendment for myself to exempt non-Indian Health Service and

non-Bureau of Indian Affairs funds from section 328 of the Interior Department and Related Agencies Appropriations Act for Fiscal Year 1999.

The next amendment is offered by Senator GRAMS to provide funding for annual contributions to public housing agencies for operating low-income housing projects.

Next is an amendment by Senator LINCOLN to provide for watershed and flood prevention debris removal.

Next is an amendment by Senator GORTON regarding loan deficiency payments for club wheat producers.

Next is an amendment for myself dealing with commercial fishing and compensation eligibility in Glacier Bay.

The next amendment is by Senator GORTON providing clarification for section 2002 of the bill regarding hardrock mining regulations.

Next is an amendment by Senator GORTON to expand the eligibility of emergency funding for replacement and repair of power generation equipment.

Next is an amendment by Senators LANDRIEU and DOMENICI to support homebuilding for the homeless in Central America.

Next is an amendment by Senator DASCHLE providing relief to the White River School District No. 4.

Finally, there is a second Daschle amendment to provide for equal pay treatment for certain Federal firefighters under section 545(b) of title V of the United States Code and other provisions of law.

Mr. President, I send these amendments to the desk and ask unanimous consent that they be considered en bloc.

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

The clerk will report.

The clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes amendments Nos. 100 through 110.

Mr. STEVENS. I ask unanimous consent that the reading of the amendments be dispensed with.

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

The amendments are as follows:

AMENDMENT NO. 100

(Purpose: To expand the jurisdiction of the State of New Mexico portion of the Southwest Border High Intensity Drug Trafficking Area (HIDTA) to include Rio Arriba County, Santa Fe County, and San Juan County and to provide specific funding for these three counties)

On page 30, after line 10 insert:

Chapter 7

EXECUTIVE OFFICE OF THE PRESIDENT AND FUNDS APPROPRIATED TO THE PRESIDENT

FEDERAL DRUG CONTROL PROGRAMS

HIGH INTENSITY DRUG TRAFFICKING AREAS PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of National Drug Control Policy's High Intensity Drug Trafficking Areas Program, an additional $750,000 is appropriated for drug control activities which shall be used specifically to expand the Southwest Border High Intensity Drug Trafficking Area for the State of New Mexico to include Rio Arriba County, Santa Fe County, and San Juan County, New Mexico, which are hereby designated as part of the Southwest Border High Intensity Drug Trafficking Area for the State of New Mexico, and an additional $500,000 is appropriated for national efforts related to methamphetamine reduction efforts.

On page 44, after line 7 insert:

Chapter 9

EXECUTIVE OFFICE OF THE PRESIDENT AND FUNDS APPROPRIATED TO THE PRESIDENT

FEDERAL DRUG CONTROL PROGRAMS

SPECIAL FORFEITURE FUND

(RESCISSION)

Of the funds made available under this heading in Division A of the Omnibus Consolidated and Emergency Supplemental Appropriations, 1999 (Public Law 105–277) $1,250,000 are rescinded.

Mr. DOMENICI. Mr. President, I rise to offer an amendment to expand the State of New Mexico High Intensity Drug Trafficking Area (HIDTA) to include three counties in the north that are under siege from ''black tar'' heroin. This amendment designates Rio Arriba County, Santa Fe County, and San Juan County as part of the New Mexico HIDTA and provides $750,000 for the remainder of fiscal year 1999 to these counties to combat this serious drug problem. This amendment is fully offset for both budget authority and outlays according to the Congressional Budget Office.

Mr. President, this is part of an overall effort to combat the serious drug epidemic in northern New Mexico. Rio Arriba County leads the nation in per capita drug-induced deaths. The rate of heroin overdoses is reportedly three times the national average.

Last month, I held meetings with State and local officials and community representatives to assess the overall illegal drug situation in northern New Mexico. I am pleased to say that the State and the communities have been aggressive in trying to address this problem. Our task now is to marshal additional resources to the problem so that there is a comprehensive strategy to get this drug problem under control. This comprehensive strategy will include law enforcement, such as this HIDTA designation and the additional, targeted resources in my amendment, as well as programs for prevention, education, after school activities for our children, and treatment. It will take all of these steps, with prosecution and jail time for drug traffickers, to combat this drug epidemic in New Mexico.

I have also enlisted the assistance of Federal agencies in this battle. The Department of Justice law enforcement agencies can assist with the illegal trafficking of ''black tar'' heroin and other drugs, some of which are smuggled into the United States by illegal Mexican nationals. The Department of Health and Human Services is also a valuable ally in this fight through the National Institute on Drug Abuse and the Substance Abuse and Mental Health Services Administration. I am committed to marshaling both federal and state and local resources to tackle this serious problem.

This amendment also provides additional resources for a national program to crack down on illegal methamphetamine laboratories and trafficking. This is another serious drug problem for the nation, but my own home State of New Mexico, has seen a marked increase in these illegal activities. As a largely rural State, and so close to the border with Mexico, New Mexico has been inundated with methamphetamine. Many States are in this same predicament, and I applaud the subcommittee for boosting the resources for this important national effort.

Mr. President, illegal drug trafficking and use is a serious problem for our nation. In spite of the significant federal and state and local resources targeted to these illegal activities, the problem remains overwhelming in some of our communities and states. I urge the adoption of my amendment.

AMENDMENT NO. 101

(Purpose: To provide relief from unfair interest and penalties on refunds retroactively ordered by the Federal Energy Regulatory Commission)

At the appropriate place, insert:

SEC. . LIABILITY OF CERTAIN NATURAL GAS PRODUCERS.

The Natural Gas Policy Act of 1978 (15 U.S.C. 3301 et seq.) is amended by adding at the end the following:

"SEC. 603. LIABILITY OF CERTAIN NATURAL GAS PRODUCERS.

''If the Commission orders any refund of any rate or charge made, demanded, or received for reimbursement of State ad valorem taxes in connection with the sale of natural gas before 1989, the refund shall be ordered to be made without interest or penalty of any kind.''.

Mr. BROWNBACK. Mr. President, I rise in support of an amendment offered by myself and Senator ROBERTS which will seek to provide fair and equitable treatment for Kansas gas producers. At a time when the oil and gas industry is suffering, the Federal Government has taken unnecessary action against gas producers in Kansas.

For almost two decades the Commission allowed gas producers to obtain reimbursement for payment of Kansas ad valorem taxes on natural gas. In a series of orders the Commission repeatedly approved the collection of the Kansas ad valorem tax, despite challenges by various pipelines and distributors. However, in 1993 the Commission changed its mind and decided that the Kansas ad valorem tax did not qualify for reimbursement to the producer, and in 1996 the D.C. Circuit Court determined that a refund was to be made retroactively.

This is another example of Federal preemption of State rights and of a regulatory agency that is out of control. Kansas gas producers are being

penalized more than $300 million for abiding by regulations that the Commission had previously approved.

The Commission's decision will likely force small producers out of business, causing a slowdown in the production of natural gas which could have a tremendously negative impact on the Kansas economy.

This amendment that Senator ROBERTS and I have cosponsored will essentially relieve all gas producers from interest owed on the ad valorem tax. This amendment will save jobs, businesses, and loss of State revenue. I am hopeful that my colleagues will support this amendment and provide fair and equitable treatment for Kansas gas producers.

AMENDMENT NO. 102

(Purpose: to exempt non-Indian Health Service and non-Bureau of Indian Affairs funds from section 328 of the Interior Department and Related Agencies Appropriations Act for fiscal year 1999)

At the end of Title II insert the following: ''SEC. . Section 328 of the Department of the Interior and Related Agencies Appropriations Act, 1999 P.L. 105–277, Division A, Section 1(e), Title III) is amended by striking ''none of the funds in this Act'' and inserting ''none of the funds provided in this Act to the Indian Health Service or Bureau of Indian Affairs''.''

AMENDMENT NO. 103

(Purpose: To provide funding for annual contributions to public housing agencies for the operation of low-income housing projects)

On page 30, between lines 10 and 11, insert the following:

PHA RENEWAL

Of amounts appropriated for fiscal year 1999 for salaries and expenses under this heading in title II of the Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999, $3,400,000 shall be transferred to the appropriate account of the Department of Housing and Urban Development for annual contributions to public housing agencies for the operation of low-income housing projects under section 673 of the Housing and Community Development Act of 1992 (42 U.S.C. 1437g): *Provided*, That in distributing such amount, the Secretary of Housing and Urban Development shall give priority to public housing agencies that submitted eligible applications for renewal of fiscal year 1995 elderly service coordinator grants pursuant to the Notice of Funding Availability for Service Coordinator Funds for Fiscal Year 1998, as published in the Federal Register on June 1, 1998.

AMENDMENT NO. 104

(Purpose: To provide for watershed and flood prevention debris removal)

On page 5, line 9, strike ''watersheds'' and insert in lieu thereof the following: ''watersheds, including debris removal that would not be authorized under the Emergency Watershed Program,''.

AMENDMENT NO. 105

(Purpose: To prohibit the Secretary of Agriculture from assessing a premium adjustment for club wheat when calculating loan deficiency payments and to require the Secretary to compensate producers of club wheat for any previous premium adjustment)

Add at the appropriate place the following new section:

SEC. . (a) LOAN DEFICIENCY PAYMENTS FOR CLUB WHEAT PRODUCERS.—In making loan deficiency payments available under section 135 of the Agricultural Market Transition Act (7 U.S.C. 7235) to producers of club wheat, the Secretary of Agriculture may not assess a premium adjustment on the amount that would otherwise be computed for club wheat under the section to reflect the premium that is paid for club wheat to ensure its availability to create a blended specialty product known as western white wheat.

(b) RETROACTIVE APPLICATION.—As soon as practicable after the date of the enactment of this Act, the Secretary of Agriculture shall make a payment to each producer of club wheat that received a discounted loan deficiency payment under section 135 of the Agricultural Market Transition Act (7 U.S.C. 7235) before that date as a result of the assessment of a premium adjustment against club wheat. The amount of the payment for a producer shall be equal to the difference between—

(1) the loan deficiency payment that would have been made to the producer in the absence of the premium adjustment; and

(2) the loan deficiency payment actually received by the producer.

(c) FUNDING SOURCE.—The Secretary shall use funds available to provide marketing assistance loans and loan deficiency payments under subtitle C of the Agricultural Market Transition Act (7 U.S.C. 7231 et seq.) to make the payments required by subsection (b).

AMENDMENT NO. 106

At the appropriate place in title II, insert:

SEC. . GLACIER BAY. (a) DUNGENESS CRAB FISHERMEN.—Section 123(b) of the Department of the Interior and Related Agencies Appropriations Act, 1999 (section 101(e) of division A of Public Law 105–277) is amended—

(1) in paragraph (1)—

(A) by striking ''February 1, 1999'' and inserting ''June 1, 1999''; and

(B) by striking ''1996'' and inserting ''1998''; and

(2) In paragraph (3) by striking ''the period January 1, 1999, through December 31, 2004, based on the individual's net earning from the Dungeness crab fishery during the period January 1, 1991, through December 31, 1996'' and inserting ''for the period beginning January 1, 1999 that is equivalent in length to the period established by such individual under paragraph (1), based on the individual's net earnings from the Dungeness crab fishery during such established period''.

(b) OTHERS EFFECTED BY FISHERY CLOSURES AND RESTRICTIONS.—Section 123 of the Department of the Interior and Related Agencies Appropriations Act, 1999 (section 101(e) of division A of Public Law 105–277), as amended, is amended further by redesignating subsection (c) as subsection (d) and inserting immediately after subsection (b) the following new subsection:

''(c) OTHERS AFFECTED BY FISHERY CLOSURES AND RESTRICTIONS.—The Secretary of the Interior is authorized to provide such funds as are necessary for a program developed with the concurrence of the State of Alaska to fairly compensate United States fish processors, fishing vessel crew members, communities, and others negatively affected by restrictions on fishing in Glacier Bay National Park. For the purpose of receiving compensation under the program required by this subsection, a potential recipient shall provide a sworn and notarized affidavit to establish the extent of such negative effect.''.

(c) IMPLEMENTATION.—Section 123 of the Department of the Interior and Related Agencies Appropriations Act, 1999 (section 101(e) of division A of Public Law 105–277), as amended, is amended further by inserting at the end the following new subsection:

''(e) IMPLEMENTATION AND EFFECTIVE DATE.—The Secretary of the Interior shall publish an interim final rule for the federal implementation of subsection (a) and shall provide an opportunity for public comment on such interim final rule. The effective date of the prohibitions in paragraphs (2) through (5) of section (a) shall be 60 days after the publication in the Federal Register of a final rule for the federal implementation of subsection (a). In the event that any individual eligible for compensation under subsection (b) has not received full compensation by June 15, 1999, the Secretary shall provide partial compensation on such date to such individual and shall expeditiously provide full compensation thereafter.''.

(d) Of the funds provided under the heading ''National Park Service, Construction'' in Public Law 105–277, $3,000,000 shall not be available for obligation until October 1, 1999.

AMENDMENT NO. 107

On page 12, line 15, after the word ''nature'' insert the following: '', and to replace and repair power generation equipment''.

AMENDMENT NO. 108

(Purpose: To provide funds to expand the home building program for Central American countries affected by Hurricane Mitch)

On page 9, line 10, after the word ''amended'' insert the following: '': *Provided further*, That of the funds made available under this heading, up to $10,000,000 may be used to build permanent single family housing for those who are homeless as a result of the effects of hurricanes in Central America and the Caribbean''.

AMENDMENT NO. 109

(Purpose: To provide relief to the White River School District #4.7–1)

At the appropriate place, insert the following:

SEC. . WHITE RIVER SCHOOL DISTRICT #4.7–1.

From any unobligated funds that are available to the Secretary of Education to carry out section 306(a)(1) of the Department of Education Appropriations Act, 1996, the Secretary shall provide not more than $239,000, under such terms and conditions as the Secretary determines appropriate, to the White River School District #4.7–1, White River, South Dakota, to be used to repair damage caused by water infiltration at the White River High School, which shall remain available until expended.

AMENDMENT NO. 110

(Purpose: To provide for equal pay treatment of certain Federal firefighters under section 5545b of title 5, United States Code, and other provisions of law)

At the appropriate place, insert the following new section:

SEC. ____. (a) The treatment provided to firefighters under section 628(f) of the Treasury and General Government Appropriations Act, 1999 (as included in section 101(h) of Division A of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277)) shall be provided to any firefighter who—

(1) on the effective date of section 5545b of title 5, United States Code—

(A) was subject to such section; and

(B) had a regular tour of duty that averaged more than 60 hours per week; and

(2) before December 31, 1999, is involuntarily moved without a break in service from the regular tour of duty under paragraph (1) to a regular tour of duty that—

(A) averages 60 hours or less per week; and

(B) does not include a basic 40-hour workweek.

(b) Subsection (a) shall apply to firefighters described under that subsection as

of the effective date of section 5545b of title 5, United States Code.

(c) The Office of Personnel Management may prescribe regulations necessary to implement this section.

Mr. STEVENS. Mr. President, as I said, they have been cleared through the whole process of legislative and appropriating subcommittees and cleared by Senator BYRD and myself as managers of the bill.

I ask that they be considered en bloc and agreed to.

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

The amendments (Nos. 100 through 110) were agreed to.

Mr. STEVENS. I move to reconsider the vote by which the amendments were agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 111

(Purpose: To prohibit the Secretary of the Interior from promulgating certain regulations relating to Indian gaming and to prohibit the Secretary from approving class III gaming without State approval)

Mr. STEVENS. Mr. President, I send another amendment to the desk, and I ask that it be read.

The PRESIDING OFFICER. The clerk will report.

The clerk read as follows:

The Senator from Alaska (Mr. STEVENS), for Mr. ENZI, for himself, Mr. SESSIONS, Mr. GRAMM, Mr. BRYAN, Mr. LUGAR, Mr. REID, Mr. VOINOVICH, Mr. BROWNBACK proposes an amendment numbered 111:

At the appropriate place, insert the following:

SEC. . PROHIBITION.

(a) Notwithstanding any other provision of law, prior to eight months after Congress receives the report of the National Gambling Impact Study Commission, the Secretary of the Interior shall not—

(1) promulgate as final regulations, or in any way implement, the proposed regulations published on January 22, 1998, at 63 Fed. Reg. 3289; or

(2) issue a notice of proposed rulemaking for, or promulgate, or in any way implement, any similar regulations to provide for procedures for gaming activities under the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.), in any case in which a State asserts a defense of sovereign immunity to a lawsuit brought by an Indian tribe in a Federal court under section 11(d)(7) of that Act (25 U.S.C. 2710(d)(7)) to compel the State to participate in compact negotiations for class III gaming (as that term is defined in section 4(8) of that Act (25 U.S.C. 2703(8))).

(3) approve class III gaming on Indian lands by any means other than a Tribal-State compact entered into between a state and a tribe.

(b) DEFINITIONS.—

(1) The terms ''class III gaming'', ''Secretary'', ''Indian lands'', and ''Tribal-State compact'' shall have the same meaning for the purposes of this section as those terms have under the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.).

(2) the ''report of the National Gambling Impact Study Commission'' is the report described in section 4(b) of P.L. 104–169 (18 U.S.C. sec. 1955 note).

Mr. STEVENS. Mr. President, I ask for a voice vote on this amendment.

The PRESIDING OFFICER. If there is no debate, the question is on agreeing to the amendment.

The amendment (No. 111) was agreed to.

Mr. STEVENS. I move to reconsider the vote by which the amendment was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to. Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

VITIATION OF ACTION ON AMENDMENT NO. 111

Mr. STEVENS. Mr. President, I ask unanimous consent that the adoption of amendment No. 111 be vitiated and that the amendment be set aside temporarily.

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

Mr. STEVENS. 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. STEVENS. 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. STEVENS. Mr. President, I ask unanimous consent that the Kerrey amendment on flood control and the Graham amendment on microherbicide be deleted from the list.

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

AMENDMENTS NOS. 103, AS MODIFIED, 112, AND 113, EN BLOC

Mr. STEVENS. Mr. President, I ask unanimous consent that I may submit as one package:

A substitute to amendment No. 103, which was an amendment offered by Senator GRAMS. This is a technical amendment that we wish to have adopted in lieu of the amendment that has already been adopted to the bill, No. 103;

A second amendment by Senators DORGAN and CRAIG, which is a sense-of-the-Senate amendment regarding sales of grain to Iran;

And, a third amendment, which is an amendment by Senator GREGG on limitations on fishing permits, or authorizations for fishing permits.

I send these to the desk and ask unanimous consent that it be in order to consider them en bloc.

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

The clerk will report.

The bill clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes amendments numbered 103, as modified, 112, and 113, en bloc.

Mr. STEVENS. I ask unanimous consent that reading of the amendments be dispensed with.

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

The amendments (Nos. 103, as modified, 112, and 113), en bloc, are as follows:

AMENDMENT NO. 103 AS MODIFIED

(Purpose: To provide funding for annual contribution to public housing agencies for the operation of low-income housing projects)

On page 30, between lines 5 and 6, insert the following:

COMMUNITY DEVELOPMENT BLOCK GRANTS

(INCLUDING TRANSFER OF FUNDS)

Of amounts appropriated for fiscal year 1999 for salaries and expenses under the Salaries and Expenses account in title II of Public Law 105–276, $3,400,000 shall be transferred to the Community Development Block Grants account in title II of Public Law 105–276 for grants for service coordinators and congregate services for the elderly and disabled: *Provided*, That in distributing such amount, the Secretary of Housing and Urban Development shall give priority to public housing agencies that submitted eligible applications for renewal of fiscal year 1995 elderly service coordinator grants pursuant to the Notice of Funding Availability for Service Coordinator Funds for Fiscal Year 1998, as published in the Federal Register on June 1, 1998.

AMENDMENT NO. 112

(Purpose: To express the sense of the Senate that a pending sale of wheat and other agricultural commodities to Iran be approved)

At the appropriate place in title II, insert the following new section:

SEC. . SENSE OF THE SENATE: EXPRESSING THE SENSE OF THE SENATE THAT A PENDING SALE OF WHEAT AND OTHER AGRICULTURAL COMMODITIES TO IRAN BE APPROVED.

The Senate finds:

That an export license is pending for the sale of United States wheat and other agricultural commodities to the nation of Iran;

That this sale of agricultural commodities would increase United States agricultural exports by about $500 million, at a time when agricultural exports have fallen dramatically;

That sanctions on food are counterproductive to the interests of United States farmers and to the people who would be fed by these agricultural exports:

Now, therefore, it is the sense of the Senate that the pending license for this sale of United States wheat and other agricultural commodities to Iran be approved by the administration.

AMENDMENT NO. 113

At the appropriate place in title II, insert the following:

SEC. . LIMITATION ON FISHING PERMITS OR AUTHORIZATIONS

Section 617(a) of the Department of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1999 (as added by section 101(b) of division A of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277)) is amended by inserting—

(a) ''or under any other provisions of the law hereinafter enacted,'' made ''after available in the Act''; and,

(b) at the end of paragraph (1) and before the semicolon, ''unless the participation of such a vessel in such fishery is expressly allowed under a fishery management plan or plan amendment developed and approved first by the appropriate Regional Fishery Management Council(s) and subsequently approved by the Secretary for that fishery under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.)''.

Mr. STEVENS. Parliamentary inquiry: Does that include the substitute replacement for the amendment already adopted, No. 103?

The PRESIDING OFFICER. Yes; it does.

Mr. STEVENS. I ask unanimous consent that these amendments be considered en bloc and agreed to.

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

The amendments (Nos. 103, as modified, 112, and 113) were agreed to.

Mr. STEVENS. I ask unanimous consent it be in order to reconsider the amendments en bloc, and that the motion be laid on the table.

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

The motion to lay on the table was agreed to.

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. STEVENS. Mr. President, I ask unanimous consent the measure pending before the Senate be temporarily set aside so we can have consideration of the Cuba rights resolution. I would like to turn the management of that over to Senator MACK of Florida.

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

The Chair recognizes the Senator from Florida.

Mr. MACK. 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. GORTON. 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. GORTON. Mr. President, I ask unanimous consent to proceed as in morning business.

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

THE MISGUIDED ANTITRUST CASE AGAINST MICROSOFT

Mr. GORTON. Mr. President, on Monday, my friend and colleague, the senior Senator from Utah, Mr. HATCH, came to the floor to respond to a statement that I gave a week or so earlier on the Justice Department's misguided antitrust case against Microsoft.

Mr. President, this has become something of a habit for the Senator from Utah and myself. We have debated that lawsuit since well before it was commenced, more than a year ago.

I am happy to state that I want to start these brief remarks with two points on which I find myself in complete agreement with Senator HATCH. First, during a speech on Monday, he joined with me in asking that the Vice President of the United States, Mr. GORE, state his position on whether or not this form of antitrust action is appropriate. I centered my own speech on the frequent visits the Vice President has made to the State of Washington and his refusal to take any such position. The Senator from Utah said:

> Government should not exert unwarranted control over the Internet, even if Vice President Gore thinks that he created it.

I am delighted that the Senator from Utah has joined me in that sentiment. Now there are at least two of us who believe that the Vice President of the United States should make his views known on the subject.

Secondly, the Senator from Utah, in dealing with the request by the Department of Justice that it receive a substantial additional appropriation for fiscal year 2000 for antitrust enforcement, stated that he is concerned about the value thresholds in what is called the Hart-Scott-Rodino legislation relating to mergers and feels that the minimum size of those mergers should be moved upward to reflect inflation in the couple of decades since that bill was passed, therefore, questions at least some portion of the request for additional appropriations on the part of the Antitrust Division.

As I have said before, I believe that it deserves no increase at all, that the philosophy that it is following harasses the business community unduly, and inhibits the continuation of the economic success stories all across our American economy but particularly in computer software.

Having said that, the Senator from Utah and I continue to disagree, though I wish to emphasize that my primary disagreement is with the Antitrust Division of the Department of Justice of the United States and this particular lawsuit.

The disagreement really fundamentally comes down to one point: Antitrust law enforcement should be followed for the benefit of consumers. The Government of the United States has no business financing what is essentially a private antitrust case. If there are competitors of Microsoft who think they have been unsuccessful and wish to finance their own antitrust lawsuits, they are entitled to do so. The taxpayers of the United States, on the other hand, should not be required to pay their money for what is a private dispute, primarily between Netscape and Microsoft.

That remains essentially the gravamen of the antitrust action that the Justice Department in 19 States is prosecuting at the present time.

There is only the slightest lip service given in the course of that lawsuit or by the senior Senator from Utah to consumer benefit. This is not surprising, Mr. President, because there is no discernible consumer benefit in the demands of this lawsuit.

Consumers have been benefited by the highly competitive nature of the software market. They are benefited by having the kind of platform that Microsoft provides for thousands of different applications and uses on the part of hundreds of different companies all through the United States.

This is not a consumer protection lawsuit. I may say, not entirely in passing, that I know a consumer protection lawsuit when I see one. I was attorney general of the State of Washington for 12 years. I prosecuted a wide range of antitrust and consumer protection lawsuits. But every one of those antitrust cases was based on the proposition that consumers were being disadvantaged by some form of price fixing or other violation of the law. I did not regard it as my business to represent essentially one business unhappy and harmed by competition for a more effective competitor.

The basis of my objection to this lawsuit is that it is not designed for consumer protection. It is designed to benefit competitors. Some of the proposals that have appeared in the newspapers for remedies in case of success, including taking away the intellectual properties of the Microsoft Corporation, perhaps even breaking it up, requiring advance permission on the part of lawyers in the Justice Department for improvements in Windows or in any other product of the Microsoft Corporation, are clearly anticonsumer in nature.

The lawsuit is no better now than the day on which it was brought. It is not designed to benefit consumers. It ought to be dropped.

I am delighted that at least on two peripheral areas of sometime controversy, the Senator from Utah and I now find ourselves in agreement. Regrettably, we still find ourselves disagreeing on the fundamental basis of the lawsuit. I am sorry he is on the apparent side of the Vice President of the United States and the clear side of the Department of Justice of the United States.

I expect this debate to continue, but I expect it to continue to be on the same basis. Do we have a software system, a computer system in the United States which is the wonder of the world that has caused more profound and more progressive changes in our society than that caused in a comparable period of time by any other industry, or somehow or another do we have an industry that needs Government regulation? I think that question answers itself, Mr. President, and I intend to continue to speak out on the subject.

EXPRESSING THE SENSE OF THE SENATE REGARDING THE HUMAN RIGHTS SITUATION IN CUBA

Mr. MACK. Mr. President, I ask unanimous consent that S. Res. 57 be discharged from the Foreign Relations Committee and, further, that the Senate now proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

A resolution (S. Res. 57) expressing the sense of the Senate regarding the human rights situation in Cuba.

There being no objection, the Senate proceeded to consider the resolution.

Mr. MACK. Mr. President, I ask unanimous consent that there now be 1 hour, equally divided, on the resolution and that the only amendment in order be an amendment to the preamble which is at the desk.

I further ask unanimous consent that following the debate time, the resolution be set aside and the Senate proceed to a vote on the resolution, at a time to be determined by the two leaders.

I finally ask that following the vote on the adoption of the resolution, the amendment to the preamble be agreed to and the preamble, as amended, be agreed to.

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

Mr. MACK. Mr. President, I yield myself 15 minutes.

The PRESIDING OFFICER. The Senator from Florida may proceed for 15 minutes.

Mr. MACK. Thank you, Mr. President.

Mr. President, I am pleased to have this opportunity today to speak about Cuba and why the United States must make every effort to pass a resolution in Geneva at the U.N. Human Rights Commission condemning the Cuban Government.

The reality which I seek to convey today is very simply stated. Fidel Castro continues to run Cuba with absolute power, based upon the failed ideals of the Marxist revolution that he led 40 years ago. He is a tyrant, a dictator, and an enemy of freedom, democracy, and respect for basic human dignity.

As many of my colleagues know, I have been reflecting on my Senate career lately as I weighed my decision on seeking another term. Let me share one of those memories with you right now.

It was October 19, 1987, when I announced my candidacy for the Senate. I traveled to Key West, the southern most point in the Continental United States, to make my announcement. I chose this location for one simple reason. I knew my passion for foreign policy arose from a deeply held conviction that America's freedom could not be taken for granted, that our freedom was not complete so long as others suffered under the yoke of tyranny. Only 90 miles from where I declared my aspiration to be a U.S. Senator in order to take part in the fight against the enemies of freedom, Fidel Castro ruled with a failed ideology and a cruel iron fist.

It seems that I have been in the Senate for a long time—10 years—but if I were to travel to Key West today, I am sad to say, I could still point toward Cuba and ask the same questions I did on October 19, 1987: What does it mean to live in peace if there is no freedom to worship God, no freedom to choose our livelihood, no freedom to read or speak the truth or to live for the dream of handing over a better life to our children and our grandchildren? Peace without freedom is false. The Cuban people are only free to serve their masters in war and in poverty.

Mr. President, I have many good friends in the Senate, and I have great respect for my colleagues. We share so much of our lives with each other each day. And even though we are divided on many issues, in our hearts there can be no division on our feelings for the suffering people of Cuba. The island so close to our shores serves as a tragic reminder of the human cost of tyranny and oppression and that freedom is not free.

Let me propose today that Fidel Castro has not changed in 10 years; in fact, he has not changed in 40 years. In the history books, 40 years can be covered in a single sentence. But in Cuba, it can also be an eternity.

I think about the 12 years since I made that speech. How many people have suffered and died needlessly in 12 years? How many screams of agony have reached for the heavens from Havana in 12 years? How many tears of sorrow and anguish have fallen in 12 years? I fear we will never know the true scale of suffering, even though it takes place so close to our shores.

Some of us have served in the Senate for a few years, some of us for 10 or 12, and some of us have been here for 30 years or more. Think what it must be like serving instead in one of Fidel Castro's prisons for all that time. In Cuba you could be imprisoned simply for doing what we do each day, and that is engage in the debate of ideas. Think about how different our lives would be if we lived in a similar environment.

I assure you, Mr. President, that the human spirit is a powerful thing. We know that throughout the world and throughout history mankind has struggled for freedom against the greatest of obstacles. That struggle lives, breathes, sweats, and thrives in Cuba today. But it does so at a great cost.

I have two short stories I want to share to demonstrate the price being paid in Cuba today.

There is a famous man known as Antunez. He began supporting freedom in Cuba in 1980. He has been in and out of prison for much of his adult life. As of February 1999, reports out of the prisons have him in poor health.

I want to read a quote from a letter he wrote and successfully smuggled out of Cuba 2 years ago. I quote:

On March 15 [1997], it will be seven years that I have been imprisoned but I have yet to lose my faith and confidence in the final triumph of our struggle. I am proud and satisfied that they will have been unable to—and will never be able to—bend my will, because I am defending a just and noble cause, the rights of man and the freedom of my country.

A second story: I have recently seen a March 10, 1999, statement of Dr. Omar del Pozo, which I want to share with you today. He was a prisoner of conscience, sentenced to 15 years in prison for promoting democracy and civil society in Cuba. Through the intercession of Pope John Paul II, Dr. Pozo was released and exiled to Canada after serving 6 years of the sentence.

It is interesting to note the comments of a man who owes his freedom from Cuba's prisons to the Pope's visit to Cuba. Listen to what he has to say about the so-called changes taking place within the Cuban Government. And I am now quoting:

In Castro's man-eating prisons, lives are swallowed, mangled, and spit out in what can only be described as his revolving-door of infamy. Some may claim that the fact that I am able to stand before you here today is because I am a product of engagement with Castro. While I am certainly grateful for the international outcry that created pressure on Castro to release me, it would be negligent of me not to recognize that as long as the dictator remains in power, there will continue to be political prisoners who are destined to become pawns to be handed over as tokens depending on the occasion . . . . my release in no way benefited the hundreds, perhaps thousands, of men and women who were left behind.

Dr. Pozo's statement certainly rings true—that the visit of the Pope and his personal release and exile from his home do not, counter to popular belief, indicate a new day in Cuba.

He continues on in his statement. Again, I quote:

Forty years have passed, and a new millennium dawns, and still political prisoners exist in a country only 90 miles from the shores of the freest nation on earth. . . . In the confusion of cliches Cuba has become in the mass media: Castro and cigars, Castro and tourism, Castro and baseball, the terrible tragedy of Cubans and their legitimate needs and desires takes a backseat to the priorities set by the Comandante en Jefe and his regime. The truly tragic part is that there are some who, in the name of profit, are willing to compromise justice and play by his rules, with no regard for the welfare of the Cuban people.

Just as actions indicate no improvement in the Government of Cuba, one could argue that things are not really getting worse. In fact, the recent crackdown in Cuba is only a manifestation of the nature of the ruling regime. Again, let me quote from Dr. Pozo:

These past days, I have heard even experienced Cuba observers question why Castro has raised the level of repression at this point in time, considering the many gestures of goodwill he has received internationally prior to and following the Papal visit. The only possible answer is that it is the nature of the beast. Castro can not help it any more than he can help being a totalitarian dictator. It is who he is and will always be. It is because he is motivated by one thing and one thing alone: [and that is] absolute power. He wants to continue to stand on the backs of the Cuban people and he will persecute, torture and kill in order to accomplish his goal of being Cuba's ''dictator for life.'' By now, everyone knows who Castro is and what he is capable of. From this point on, the field can only be divided between those who are willing to overlook his crimes and those who are not.

Again, I just point out, those were not my words. These are the words of an individual who was released from Castro's prison because of the pressure brought on by the international community and by the Pope's visit. What he is saying here is that nothing has changed as a result of the Pope's visit to Cuba. He is saying nothing has changed. And he is saying to us—not me saying, but he is saying to us—that ''the field can only be divided [now] between those who are willing to overlook [Castro's] crimes and those who are not.''

Mr. President, in conclusion, let me once again say freedom is not free, but it is the most valuable thing that we know; it is, in fact, the core of all human progress. Freedom has everything to do with our spiritual, physical, and political lives. Without it—without freedom—what would we do? It is important to think about this in order to appreciate the words of the brave men and women in Cuba fighting for freedom, because they are, after all, fighting for everything and paying a large price indeed.

I want to reach out to my colleagues today. We loathe tyranny and oppression. So let us stand united behind our delegation in Geneva; let us proclaim our views at the United Nations Human Rights Commission. Let us stand tall and speak with unity, conviction, and strength. Let us proclaim: ''The United States of America abhors tyranny and loves freedom. We oppose the enemies of liberty and we support those struggling for LIBERTAD.''

That, Mr. President, represents the meaning of this resolution in its entirety. I hope my colleagues will join me today in making this most important statement.

Thank you, Mr. President. I yield the floor.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER (Mr. INHOFE). The Senator from Florida.

Mr. GRAHAM. Mr. President, I understand that we have 1 hour equally divided.

The PRESIDING OFFICER. That is correct.

Mr. GRAHAM. I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, my friend and colleague, a friend and colleague who, unfortunately, has recently announced that his next phase of life is going to be someplace other than the Senate, started with the story of where he commenced his campaign to come to the Senate—in the beautiful, unique community of Key West. In addition to Key West's physical proximity to Cuba, Key West also has a history which is very intertwined with the long efforts of the people of Cuba to achieve freedom.

It was during the period of the Cuban civil war in the 1870s, 1880s and into the 1890s that many exiles left Cuba and came to Key West to find freedom and a place from which they could relaunch their efforts to achieve freedom in their homeland.

Jose Marti spoke many times in Key West to the exiled community of his dreams for a Cuba of independence and freedom. It is in Key West that there is the memorial for the USS Maine, the Tomb of the Unknown Sailor, for over 200 American sailors who were killed in Havana Harbor early in 1898—an event which contributed to the United States eventual declaration of war and involvement in what we refer to as the Spanish-American War. In Key West we find remnants of that long history of the yearning of the people of Cuba to live in freedom and independence.

After having won their independence in 1898, 60 years later, it was taken away from them. For four decades, they have lived under the oppressive rule of the dictator, Fidel Castro.

Last month, we recognized another dictatorship in this world, one that is not near to us but half a world away. The Senate passed a resolution calling for a condemnation of the human rights situation in China. We urged the United Nations Human Rights Commission to have that on their agenda at their soon-to-be-held meeting in Geneva. With this resolution, Senate Resolution 57, we take a similar position condemning the human rights situation in Cuba which, unfortunately, is considerably worse today than the situation in China.

This resolution calls on the President to make every effort to pass a resolution at the upcoming meeting of the United Nations Human Rights Commission condemning Cuba for its abysmal record on human rights. It also calls for the reappointment of a special rapporteur to investigate the human rights situation in Cuba.

Last year, for the first time in many years, no resolution on human rights in Cuba was passed by the United Nations Human Rights Commission. Perhaps this hiatus in U.N. condemnation of Cuba was due to the hopes that were raised as a result of the Pope's visit in January of 1998. Unfortunately, if that were the case, there has, in fact, been a significant worsening of the human rights situation in Cuba since the Pope's visit.

According to the independent group, Human Rights Watch,

> As 1998 drew to a close, Cuba's stepped up persecutions and harassments of dissidents, along with its refusal to grant amnesty to hundreds of remaining political prisoners or [to] reform its criminal code, marked a disheartening return to heavy-handed repression.

The Cuban Government also recently passed a measure known as Law 80 which criminalizes peaceful, prodemocratic activities and independent journalism, with penalties of up to 20 years in jail.

The State Department's Country Report on Human Rights Practices in Cuba for 1998 notes that the government continues to systematically violate the fundamental civil and political rights of its citizens. Human rights advocates and members of independent professional associations, including journalists, economists, doctors, and lawyers are routinely harassed, threatened, arrested, detained, imprisoned and defamed by the government. All fundamental freedoms are denied to citizens. In addition, the Cuban Government severely restricts worker rights, including the right to form independent trade unions, and employs forced labor, including child labor.

The most recent example of this horrible repression in Cuba is the trial of four prominent dissidents—Vladimiro Roca, Marta Beatriz Roque, Felix Bonne and Rene Gomez Manzano. They were all charged with sedition. After being detained for over 19 months for peacefully voicing their opinion, the trial of these four brave patriots has drawn international condemnation. To demonstrate the hideous nature of the Castro regime, Marta Beatriz Roque has been ill, believed to be suffering from cancer, and has been denied medical attention during her long period of detention.

During the trial, authorities have rounded up scores of other individuals, including journalists and dissidents, and jailed them for the duration of the trial. The trial was conducted in complete secrecy with photographers prevented from even photographing the streets around the courthouse. This trial reminds me of the worst days of Stalinist repression in the Soviet Union.

This week, Castro's dictatorship found the four dissidents guilty and sentenced them to terms ranging from 3½ to 5 years—5 years in prison for simply making a statement about democracy. This action has outraged the world.

This outrageous spectacle has caused even Castro's closest friends to rethink their relationship with Cuba. Canadian Prime Minister Chretien has indicated that Canada will review its entire relationship with Castro. The European Union issued a strong statement condemning this repression.

This is not the type of conduct that we have come to expect in our hemisphere, where Cuba remains the only nondemocratic government. This level of repression and complete disregard for international norms cannot be ignored. I hope that all of our colleagues will join my colleague, Senator MACK, and myself, in condemning the human rights situation in Cuba and calling for action at the United Nations Human Rights Commission.

Last month, we voted unanimously to support a resolution condemning human rights in China. Unfortunately, we have within 100 miles of our shores a situation in Cuba that is worse than that halfway around the world in China—a situation that deserves the full effort of our government to assure that it is not ignored by the international community.

I ask unanimous consent to have printed in the RECORD a series of newspaper items from the press in this country as well as in Europe, Latin America and in Canada, condemning the human rights abuses in Cuba.

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

[From the Miami Herald, Mar. 18, 1999]

FREE FOUR DISSIDENTS, EUROPE TELLS CUBA

(By Andres Oppenheimer)

The 15-country European Union issued a strong statement Wednesday calling for the release of four Cuban dissidents who received harsh sentences in Havana this week, while European and Latin American officials said they are rethinking their recent overtures to the island.

In a statement issued in Brussels, the EU said the Cuban dissidents, who received prison terms of between 3½ and 5 years for publishing a pamphlet criticizing the government, had been exercising the universally recognized right to freedom of expression. ''The European Union cannot accept that citizens who do so be criminalized by state authorities,'' the statement said.

The four dissidents—Vladimiro Roca, Felix Bonne, Rene Gomez Manzano and Marta Beatriz Roque—are well known intellectuals who were arrested after publishing a manifesto titled The Homeland belongs to all.

The French news agency AFP reported Wednesday that Cuba's failure to release the four could lead to Cuba's exclusion from upcoming talks between the EU and African, Caribbean and Pacific Rim developing countries. EU officials were not available late Wednesday to comment on the report.

The EU recalled that it had expected the four dissidents to be released last year when it agreed to Cuba's request for observer status in its discussions with developing countries who are beneficiaries of Europe's Lome economic cooperation agreement.

''The EU therefore repeats its calls for the prompt release of the four and will continue to evaluate the development of this matter,'' the statement said.

''In addition, the EU wants to convey its disappointment at the fact that neither diplomats nor foreign news media were allowed to attend the trial of the dissidents, despite the fact that their relatives had been told that the trial would be open to the public,'' it said.

The EU also said it was concerned about the temporary detention and house arrest of several dozens people connected to the imprisoned dissidents and by new Cuban laws that ''curtail the exercise of citizen's rights.''

Although Cuba customarily rejects such denunciations as intervention in its internal affairs, the EU statement is considered significant because the European group has steadfastly maintained friendly diplomatic and trade relations with Cuba in the face of threats of retaliation from powerful critics of Cuba in the U.S. Congress.

The Helms-Burton Act, which imposes sanctions on countries investing in Cuban property confiscated from U.S. citizens, was aimed at some European investors but their governments have challenged the law and refused to back down.

In a telephone interview hours before the statement was released, Sweden's international cooperation minister, Pierre Shori, told The Herald that the recent developments in Cuba are ''alarming.'' Shori said that ''the toughening of the laws against dissidents goes against what the Cuban authorities have said in their dialogue with the European Union.''

The EU statement came a day after Canada said it was reconsidering its support for Cuba's return to the Organization of American States (OAS) after Monday's sentencing of the four dissidents. Cuba's OAS membership was suspended in 1962.

The EU statement did not mention the possibility of excluding Cuba from the first European-Latin American summit, to be held June 28–29 in Rio de Janeiro. Fifteen European and 33 Latin American and Caribbean presidents, including Cuba's Fidel Castro, are expected to attend.

The EU condemnation of Cuba's latest crackdown against peaceful opponents, however, marks a possible reversal of the island's ties with the European Union, which had been warming up since 1996 and appeared ready for a significant improvement since Pope John Paul II's visit to the island last year.

Meanwhile, top officials from several Latin American countries—including Chile, Uruguay, Argentina and El Salvador—said their governments were rethinking whether to attend a summit of Ibero-American countries in Havana in November. Nicaragua has already announced it will not attend.

Latin American foreign ministers are to discuss participation at the Havana summit at a meeting in Veracruz, Mexico, on Friday. But a senior Mexican official said Mexico—which presides over the Veracruz meeting—will oppose any effort to organize a boycott of the Cuba summit and that such a move ''is not on the agenda.''

[From the Financial Times, Mar. 17, 1999]

CUBA: TRADING PARTNERS PROTEST

(By Pascal Fletcher)

Cuba has jailed our well-known political dissidents accused of sedition, drawing condemnation from the U.S. and criticism from leading trade and investment partners Canada and Spain.

The jail sentences announced on Monday ranged from 3½ to five years and were less than those sought by the prosecution. But foreign diplomats said they still sent a strong message from Cuba's one-party Communist government that it would not tolerate opposition, even when it is peaceful.

Jean Chrétien, Canada's prime minister, who had asked Fidel Castro, Cuba's president, to release the four, described the sentences as ''disappointing'' and added his government would be reviewing the range of its bilateral activities with Havana. José Maria Aznar, Spanish premier, said the jail terms were a ''step backwards'' for human rights in Cuba.

The four—Vladimiro Roca, Félix Bonne, René Gómez and Martha Beatriz Roque—were convicted of inciting sedition after they criticised one-party communist rule, called for a boycott of elections and urged foreign investors to think twice about investing in Cuba.

Mr. Roca, the son of Cuban Communist party founder Blas Roca, was jailed for five years.

Mr. Bonne and Mr. Gómez each received four-year sentences and Ms. Roque three-and-a-half years. All had already been held for 20 months.

U.S. President Bill Clinton called for their immediate release, saying they had not received a fair trial.

[From the Washington Post, Mar. 2, 1999]

THE HAVANA FOUR

Vladimiro Roca, Martha Beatriz Roque, Felix Bonne, Rene Gomez: Note those names. They are dissidents in Communist-ruled Cuba who went to trial in Havana yesterday. These brave people were jailed a year and a half ago for holding news conferences for foreign journalists and diplomats, urging voters to boycott Cuba's one-party elections, warning foreigners that their investments would contribute to Cuban suffering and critizing President Fidel Castro's grip on power. For these ''offenses'' the four face prison sentences of five, or six years.

Castro Cuba has typically Communist notions of justice. By official doctrine, there are no political prisoners, only common criminals. President Castro rejects the designation of the four, in the international appeals for their freedom, as ''prisoners of conscience.'' Their trial is closed to the foreign press. Some of their colleagues were reportedly arrested to keep them from demonstrating during the trial.

Fidel Castro is now making an energetic effort to recruit foreign businessmen to help him compensate for the trade and investment lost by the continuing American embargo and by withdrawal of the old Soviet subsidies. He is scoring some success: British Airways, for instance, says it is opening a Havana service. Many of the countries engaged in these contacts with Cuba do so on the basis that by their policy of ''constructive engagement'' they are opening up the regime more effectively to democratic and free-market currents than is the United States by its harder-line policy.

The trial of the four provides a good test of this proposition. The four are in the vanguard of Cuba's small nonviolent political opposition. Acquittal would indicate that in this case anyway the authorities are listening to the international appeals for greater political freedom. But if the four are convicted and sentenced, it will show that the regime won't permit any opposition at all. What then will be international crowd have to say about the society-transforming power of their investment?

[From the Miami Herald, Mar. 11, 1999]

''THE SADNESS I FEEL FOR CUBA STAYS ON MY MIND''

(By Raul Rivero)

HAVANA.—From my cell I could see Tania Quintero, Cuba Press correspondent, her face shadowed by the cell's iron lines. From her cell, she could hear the hoarse voice of Odalys Cubelo, another Cuba Press correspondent. And one could feel the presence of Dulce Maria de Quesada, dissident, quiet and silent, sitting on the edge of the gray cement bed.

Not too far from this dark basement, where we were being held, the trial of the four members of the Working Group of Internal Dissidence was taking place.

Tania wanted to be present at the trial because she is a first cousin of Vladimiro Roca, one of the accused. Odalys wanted to cover the trial as a journalist, and Dulce Maria, a retired librarian and dissident, wanted to be there because she felt that she had the right to show a gesture of solidarity with the accused.

I also wanted to follow the trial as a journalist, as a Cuban citizen and as a friend of the four intellectuals being tried. Yet I was jailed with eight common prisoners accused of violence, assault, armed robbery and pimping.

Of course, many ideas crossed my mind, and I experienced many feelings during those 30 hours in jail. As days go by, however, it is the shame and sadness I feel for Cuba that stays on my mind.

I ask myself, what are these professional and decent women doing in a police-station cell? What is going on in Cuba that honorable daughters of this country, belonging to three different generations and from different political origins and upbringings, may be arrested on the streets and placed in a cell

with women accused of prostitution and armed robbery?

I felt more pain for the imprisonment of those three friends than for my own jailing. This is because I perceived their punishment as a symbol anticipating a sacrificial pyre.

Tania and Odalys—like Marvin Hernandez, who had been imprisoned for 48 hours and began a hunger strike in Cienfuegos—have demonstrated professionalism, integrity and discipline while going through this exercise of independent journalism in Cuba.

A few hours after being relatively free to go home, I was to have a unique ''meeting'' with Marta Beatriz Roque Cabello [one of the dissidents being tried]. There she was in my living room, the brilliant economist who loves poetry and good music, wearing her prisoner's uniform—on my TV screen. A state broadcaster was insulting her, calling her a stateless person and a ''marionette of imperialism.''

Since Marta's ''visit'' was so peculiar, I almost commented aloud to her about a note that she sent me from the Manto Negro [Black Cloak] prison at the end of 1998. ''Here we are,'' she had written, ''without any apparent solution but with a lot of faith in God, because there is nothing impossible for Him.''

Marta asked me to put together for her ''some material on neoliberal business globalization and the financial crisis in Asia. I want to state my opinions on the subject.'' A strange request from a woman in prison, it's true. Marta's presence in the kind of Cuba that we have can be disquieting and odd.

Her note concluded: ''Say 'hello' to Blanca and tell her I recall her great coffee. I hope God allows me to drink some of it soon, sitting in your living room.''

There I had been with Tania, Odalys and Dulce Maria in the jail, and Marta later ''came'' to my home, and I couldn't even offer her coffee.

[From the London Economist, Mar. 6, 1999]

COSY OLD CASTRO?

Like any old trouper, Fidel Castro has a neat sense of timing, and surefooted ability to confirm both his friends and his critics in their views. It is three years since his air force cruelly shot down two unarmed planes sent provocatively towards Cuba by an exile group. The result was Bill Clinton's signature on the Helms-Burton act, tightening still further the American embargo against the island. Helms-Burton is not, in fact, the most damaging piece of such American law, but the regime hates it. It was no coincidence that last month Mr. Castro proposed, and his rubber-stamp legislature at once approved, fierce penalties for all who ''collaborate'' with the American government—or, specifically, with foreign media—in the effort to strangle Cuba's economy or upset its socialist system. The few brave Cubans who dare to criticise the regime, and even to publish their views abroad, said this was aimed at them. And, as if to confirm it, the regime chose this week to put on trial—for just one day, and almost out of public view—four of the best-known dissidents.

Their offense, among others, is to have published in mid-1997 a document entitled ''*La Patria es de Todos*'', ''The Fatherland Belongs to All''—a claim deeply offensive to Mr. Castro's Communist Party, which likes to claim Cuba, its anti-colonial past and its present alike as exclusive party property. The four heretics were promptly arrested. Even though the new law was not applied to their case, they now risk sentences of years in prison, for the crime of telling the truth.

Mr. Castro has thus confirmed his admirers' unwavering belief in his unwavering addiction, after 40 years of power, to the basics of Stalinism. Cuba's official media, of course, approve; and even abroad the sort of lickspittles who 40–50 years ago swallowed the show-trials of Eastern Europe can be found to defend this fresh attack on those whom they smear as ''so-called'' dissidents (if not common criminals, nut-cases or both). More important, Mr. Castro has comprehensively thumbed his nose at outsiders who thought that, while reluctantly opening chinks of free-marketry into Cuba's economy he might also open chinks for free thought and free speech. These hopefuls included Pope John Paul, who came visiting 14 months ago, and whose visit did indeed win freedom (albeit mostly in exile) for some dissidents, and greater freedom for his church. Its inter-American bishops' conference was held last month in Cuba, for the first time. But even as the bishops met, the new gagging law was going through.

This renewed assault on free thought must worry those governments—in Latin America, in Canada and Europe—which argue that constructive engagement may get Mr. Castro to loosen his grip. An Ibero-American summit is due to be held in Cuba this year. Spain has talked of a royal visit, though the trials have already led it to rethink. Even Mr. Clinton has recently made some gestures towards Cuba's citizenry, if only to have its regime spit them back in his face.

The stick plainly does not work: the American embargo no more promotes freedom in Cuba today than for decades past. But neither, on current form, do dialogue, trade and investment, and the carrot of more if only Mr. Castro would let go a little. His successors may soften, hoping to preserve his achievements (yes, they exist) and their own power, while loosening the handcuffs of Marxist economics and thought-control. But the old ham himself, it seems, aims to hoof on.

[From the Globe and Mail, Mar. 3, 1999]

CUBA'S FAVOURITE PATSY

(By Marcus Gee)

Last April, Jean Chrétien flew down to meet Cuba's Fidel Castro, becoming the first Canadian prime minister to do so since 1976. By all accounts they got along famously. Mr. Chrétien praised Cuban-Canadian friendship and told a few jokes. Mr. Castro praised Cuban-Canadian friendship and told a few jokes. Mr. Chrétien had just one thing to ask of his host: Could Cuba please release four Cubans who had been jailed for criticizing the government.

On Monday, 10 months later, Mr. Castro gave his answer. He put the four on trial for sedition. Marta Beatriz Roque, Felix Bonne, Rene Gomez Manzano and Vladimiro Roca—the so-called Group of Four—face jail terms of up to six years for ''subverting the order of our socialist state.'' Their crime: urging voters to boycott Cuba's rigged one-party elections and scolding foreign investors for propping up the Castro regime.

The decision to press on with the trial despite protests from Canada and others is yet another example of Mr. Castro's determination to crush all opposition to his ragged dictatorship. It is also final, definitive proof that Canada's Cuba policy has failed. With the opening of this caricature of justice, that policy lies gutted like a trout on a pier.

Ottawa calls its policy ''constructive engagement.'' When it took office in 1993, Mr. Chrétien's government decided to step up contacts with Cuba. More high-level visits, more trade and investment, more development aid.

The idea was to set Canada apart from the United States, which has tried for years to bring down Mr. Castro with a trade embargo and other pressure tactics. The U.S. strategy had clearly failed; so Ottawa would try a gentler, more Canadian approach. By ''engaging'' Mr. Castro, we would win his confidence and persuade him of the error of his ways, meanwhile tweaking Uncle Sam's nose and winning a new market for Canadian exporters.

In a visit to Cuba in 1997, Foreign Minister Lloyd Axworthy persuaded Mr. Castro to let Canada help Cuba build a ''civil society''—a favourite Lloydism. Canadian MPs would visit Cuba to impart their wisdom about parliamentary democracy. Canadian lawyers and judges would tell their Cuban counterparts how an independent justice system works. Canadians would even help Cuba strengthen its citizens' complaint process, a kind of national suggestion box.

All this came to pass. The practical effect on human rights in Cuba: zero. Mr. Castro's human-rights record remains the worst in the Americas. Cuba is still a one-party state where elections are a sham, the judiciary is still a tool of state oppression, independent newspapers and free trade unions don't exist, and more than 300 Cubans still languish in jail for ''counter-revolutionary crimes.''

Far from allowing a civil society to flourish, Mr. Castro has been cracking down. Just two weeks before the trial of the Group of Four, the rubber-stamp National Assembly passed a new anti-subversion law that sets penalties of up to 20 years in jail for anyone ''collaborating'' with the tough U.S. policy on Cuba. Clearly aimed at Cuba's tiny group of independent journalists, the law would make it a crime, for example, to talk to the U.S.-funded Cuban-language Radio Marti. Cuba's fear of bad press is so intense that it jailed a Cuban doctor for eight years after he talked to the foreign press about a dengue fever epidemic in the city of Santiago.

Mr. Castro's one concession to Canada, if it can be called that, has been to release a dozen or so political prisoners and let them come to Canada—in other words, to send them into exile. When Mr. Chrétien came tuque in hand to Havana last April, bleating about the value of ''dialogue over confrontation,'' his host used him as a backdrop for a rant against the U.S. embargo, which he compared to genocide.

Yet his gains from the cozy relationship with Canada have been huge. His strategy for many years has been to drive a wedge between the United States and its allies on the Cuba issue. Helped by the stupid Helms-Burton law, which seeks to penalize foreign companies that do business with Cuba, he has been making new friendships in Europe, the Caribbean and Latin America. The friendship of Canada, a country renowned for championing human rights, is by far his biggest coup. And he didn't even have to ask.

In its summary of Canada's Cuba policy, the Department of Foreign Affairs explains why Cuba has been so keen on Canada's friendship. ''Given our longstanding relations, Canada's status as a technologically advanced North American nation, and the lack of a heavily politicized agenda, Canada has been seen as a trusted interlocutor with a balanced perspective.'' Down at the pub, they call that a dupe.

Mr. GRAHAM. Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the President of the AFL–CIO, John J. Sweeney, directed to Fidel Castro, dated March 5, 1999, condemning the human rights conditions in Cuba.

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

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,
Washington, DC, March 5, 1999.

Dr. FIDEL CASTRO,
President, Republic of Cuba, Plaza de la Revolucion, Havana, Cuba.

DEAR MR. PRESIDENT: The AFL–CIO, representing over 13 million working men and women in the United States, vigorously objects to your government's recent measures to silence all opposition in your country, including the passage of laws proscribing freedom of expression with the penalty of death, and increasingly violent physical attacks, arrests, and other forms of harassment perpetrated against pro-democracy activists.

Despite Pope John Paul's historic visit to your country, during which he asked the world to open itself to Cuba and for Cuba to open itself to the world, and the subsequent release of several political prisoners, these most recent measures promulgated and implemented by your government make for a giant step backward. A number of victims of this most recent wave of repression were independent trade union activists.

Some human rights activists have termed the recent campaign of repression as the most significant operation since the 1996 break-up of the Concilio Cubano. On March 1, security forces detained dozens of local activists and blocked foreign observers, including the chief U.S. Envoy to Havana, from attending the trial of the so-called ''Group of Four.'' Vladimir Roca the son of the deceased Cuban Communist hero Blas Roca, Marta Beatrize Roque, an economist, Felix Bonne, an academic, and Rene Gomez, an attorney, have been jailed for the past 19 months for holding news conferences for foreign journalists and diplomats, for urging voters to boycott your country's one-party elections, for warning foreigners that their investments would contribute to Cuban suffering and for openly criticizing the Communist Party. Such actions would be considered a normal exercise of freedom of expression in any democratic society. We also understand that the defendants are jointly accused of ''other acts against the security of the state in relation with a crime of sedition.'' For these ''offenses'', the four defendants face prison sentences of five to six years. Although your government denies holding prisoners of conscience, it labels the four, as it does other opposition figures, as ''counter-revolutionary'' criminals.

The unwarranted arrests, threats and physical intimidation are in direct violation of the rights defined and protected by the United Nations' Universal Declaration of Human Rights, to which Cuba is a signatory.

The AFL–CIO respectfully requests that your government rescind these most recent measures of repression, as well as freeing the scores of prisoners of conscience who still inhabit your country's jails. The AFL–CIO also wishes to acknowledge and condemn the recent campaign of government-sponsored repression which victimized the individuals mentioned in the list which is enclosed. Although a number of these individuals have been released from state detention, they should never have been arrested in the first place.

Sincerely,

JOHN J. SWEENEY,
President.

Mr. HELMS. Mr. President, I commend our distinguished colleagues from Florida, Senators BOB GRAHAM and CONNIE MACK, for their leadership in the bipartisan effort to defend the rights of the Cuban people.

Their Senate Resolution No. 57—of which I am a proud cosponsor—is a timely reminder to the administration that the United States must speak out clearly in behalf of those whose own voices are choked by communist repression—be they in China or Cuba. Our principled, consistent defense of human rights must be heard at the upcoming meeting of the U.N. Commission on Human Rights in Geneva.

In recent weeks, Fidel Castro has executed a brutal crackdown on courageous Cubans and independent journalists who seek freedom from the heavy-handed treatment imposed on them by the Castro government.

Just this week, he sentenced four prominent, peaceful dissidents to up to 5 years in prison for daring to criticize Castro's failed communist experiment.

There's nothing new about Castro's brutality. But the latest Castro crackdown is significant because it violates Castro's commitments to the Pope. The Pope asked Castro to ''open up to the world'' and to respect human rights. Castro's reply has now been heard: He gave a bloody thumbs-down to the Pope's plea.

The latest crackdown also comes despite years of Canadian coddling and European investment in Cuba. The Canadians' self-described ''policy of engagement'' has served to prop-up the Castro regime but has done nothing to advance human rights or democracy.

Thos who have urged unilateral concessions from the United States in order to nudge Castro toward change surely will now acknowledge that appeasement has failed—as it always does.

The U.S. response to this latest wave of repression must be resolute and energetic. We must invigorate our policy to maintain the embargo on Castro, while undermining Castro's embargo on the Cuban people.

We should make no secret of our goal: I myself have declared publicly and repeatedly that, for the sake of the people of Cuba, Fidel must go. And, whether he goes vertically or horizontally is up to him.

Since the Pope's visit to Cuba, I have urged the administration to increase United States support for Cuban dissidents and independent groups, which include the Catholic Church. Once again, I call on the Clinton administration to increase U.S. support for dissidents, to respect the codification of the embargo, and to work with us on this bipartisan policy.

Castro's recent measures make clear that he is feeling the heat from our efforts to reach out to the Cuban people. That is why Castro is trying to crush dissidents and independent journalists, who are daring to tell the truth about his regime. That is why he has made it a criminal offense for Cubans to engage in friendly contact with Americans.

Castro's cowardly brutality—when one pauses to think about it—shows that he is a weak and frightened despot. His cruelty should make us more determined than ever to sweep Castroism onto the ash heap of history.

Senate Resolution 57 calls upon the administration to use its voice and vote at the upcoming meeting of the U.N. Human Rights Commission to support a strong resolution that will condemn Castro's systematic repression and appoint a special rapporteur to document the regime's willful violations of universally recognized human rights.

Mr. TORRICELLI. Mr. President, I rise today in support of S. Res. 57, expressing the sense of the Senate regarding the human rights situation in Cuba.

I am pleased to join Senator GRAHAM, MACK and my other colleagues in support of this resolution. This is a timely resolution. As the U.N. Human Rights Commission is preparing to meet in Geneva later this month, we are witnessing a new crackdown on human rights in Cuba.

This week, four prominent dissidents were sentenced to jail terms ranging from three and a half to five years by the Cuban government. Their crime—exercising their right to speak and support a peaceful transition to democracy.

These courageous people, Vladimiro Roca, Rene Manzano, Felix Bonne, and Marta Beatriz Roque, were arrested for their peaceful criticism of the Communist Party platform. They were held over one year without being charged. They were tried in a closed door proceeding that violated all standards of due process. Scores of human rights activists and journalists were arrested before and during their trial to prevent demonstrations of support for the accused. Fidel Castro ignored calls from the Vatican and the Canadian government for their release. Yesterday, the European Union issued a strong statement calling for their release.

The trial prompted international outrage, but came as little surprise for those who have followed Castro's policy of eliminating peaceful dissent. The government regularly pursues a policy of using detention and intimidation to force human rights activists to leave Cuba or abandon their efforts. The four dissidents bravely rejected the Cuban government's offers to go into exile rather than face trial.

One year after the Papal visit, an event which many hoped would bring greater openness to Cuba, Fidel Castro has slammed the door closed on the world and on the Cuban people. 1999 has brought about no change in Castro's unyielding policy of stifling human rights. To the contrary, Castro is tightening his iron grip on the Cuban people.

First, he began the year by rejecting the Administration's expanded humanitarian measures. Among other initiatives, the measures establish direct mail service between the U.S. and Cuba, and expand remittances to individual Cuban families and charitable organizations. These measures, designed to ease the suffering of the Cuban people caused by 40 years of

communism, were called acts of ''aggression'' by the Cuban government.

Second, a new security law for the ''Protection of National Independence and Economy'' was passed by the Cuban government in February. The law criminalizes any form of cooperation or participation in pro-democracy efforts. It imposes penalties ranging from 20 to 30 years, for those found to be cooperating with the U.S. government. Government officials have already warned human rights activists that violations are punishable under the new law.

And third, the State Department Country Reports on Human Rights Practices details the same human rights abuses as last year and the year before. One is hard-pressed to find any improvements. The Report repeats last year's finding that the Cuban government's human rights record remains poor. It reiterates the finding that the government continues to ''systematically violate fundamental civil and political rights of its citizens.'' Security forces ''committed serious human rights abuses.''

The examples of human rights violations in the Report are numerous, and startling. Human rights activists are beaten in their homes and outside churches. People are arbitrarily detained and arrested. Political prisoners are denied food and medicine brought by their families. Even children are made to stand in the rain chanting slogans against pro-democracy activists.

I would, therefore, say to those countries seeking increased ties with Cuba—take a look at this record. Do not lend any credibility or legitimacy to a government that denies its people basic human rights, and punishes those seeking a peaceful transition to democracy.

While the Western Hemisphere gradually moves towards greater respect for human rights, Cuba remains mired in its communist past. Once again, it is the Cuban people who suffer.

This resolution demonstrates that the United States' Senate stands united, not divided, in condemning human rights abuses in Cuba. It also sends a strong message to not only the U.N. Human Rights Commission, but also to the Cuban people. We will stand with you and support you until the day that you are free.

I urge my colleagues to join me in support of this resolution.

Mr. MACK. There are no further speakers on my side, so I am prepared to yield back the remainder of my time.

Mr. GRAHAM. There are no other speakers on our side of the aisle, so I also yield back the remainder of our time.

The PRESIDING OFFICER. All time has expired.

Mr. MACK. I suggest the absence of a quorum.

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

The bill clerk proceeded to call the roll.

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

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

EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT FOR FISCAL YEAR 1999

The Senate resumed consideration of the bill.

AMENDMENT NO. 114

(Purpose: To transfer funds from the environmental programs and management account of the Environmental Protection Agency to the State and tribal assistance grant account)

Mr. STEVENS. Mr. President, I send to the desk an amendment which is one of the relevant amendments listed by the majority leader. It is on behalf of Senator CRAPO, dealing with the transfer of funds from the environmental programs and management account of the EPA to the State and tribal assistant grant account. This has been cleared on both sides, and I ask that it be considered.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS), for Mr. CRAPO, proposes an amendment numbered 114.

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

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

The amendment is as follows:

On page 58, between lines 15 and 16, insert the following:

SEC. 4. . WATER AND WASTEWATER INFRASTRUCTURE PROJECTS.

Of the amount appropriated under the heading ''ENVIRONMENTAL PROGRAMS AND MANAGEMENT'' in title III of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (Public Law 105–276), $1,300,000 shall be transferred to the State and tribal assistance grant account for a grant for water and wastewater infrastructure projects in the State of Idaho.

Mr. STEVENS. Mr. President, I ask unanimous consent that the amendment be agreed to.

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

The amendment (No. 114) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I ask unanimous consent to remove from the list Senator DEWINE's amendment on steel and Senator MURRAY's amendment on rural schools.

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

Mr. STEVENS. 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. STEVENS. 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. STEVENS. Mr. President, I ask unanimous consent to send to the desk and consider, en bloc, the following amendments:

A Kohl-Harkin-Durbin amendment to provide funding for conservation technical assistance; a Bond-Durbin-Ashcroft-Grassley-Frist-Harkin amendment for additional funding for section 32 assistance to producers; a Byrd amendment to provide additional funding for rural water infrastructure; a technical amendment of my own regarding the provision of emergency assistance made available for fiscal year 1999; a Feinstein-Boxer amendment to increase the emergency funds made available for emergency grants to low-income migrant and seasonal workers.

The last amendment deals with a $5 million increase which we believe is offset with the current bill. The others are offset.

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

AMENDMENTS NOS. 115 THROUGH 119, EN BLOC

Mr. STEVENS. Mr. President, I send the amendments to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes amendments numbered 115 through 119, en bloc.

Mr. STEVENS. Mr. President, I ask unanimous consent that the reading of the amendments be dispensed with.

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

The amendments are as follows:

AMENDMENT NO. 115

(Purpose: To provide funding for conservation technical assistance)

On page 37, line 9 strike ''$285,000,000'' and insert in lieu thereof ''$313,000,000''.

At the appropriate place, insert the following:

''SEC. . Notwithstanding Section 11 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714i), an additional $28,000,000 shall be provided through the Commodity Credit Corporation in fiscal year 1999 for technical assistance activities performed by an agency of the Department of Agriculture in carrying out any conservation or environmental program funded by the Commodity Credit Corporation: *Provided*, That the entire amount shall be available only to the extent an official budget request for $28,000,000, that includes designation of the entire amount of the request as emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(A) of such Act.''

Mr. KOHL. Mr. President, today, along with Senators HARKIN and DURBIN, I introduce an amendment to add $28 million this fiscal year to the Conservation Reserve Program CRP, run

by the Natural Resources Conservation Service, NRCS of USDA. The amendment is fully offset and acceptable to Senator COCHRAN and my colleagues on the other side of the aisle.

One of the benefits of my job is having an opportunity to travel many of the highways and backroads of the State of Wisconsin. And, I like so many other residents of my State, never tire of the landscape of rolling hills, grazing dairy cows, and handsome farms. In the last few years, dotted among these lovely farms, is a new sight—or, perhaps more accurately, a sight so old that not many of us have had a chance to experience it. There are patches of land where the native trees, grasses and flowers are growing again; where white tail deer and pheasant walk among wood violets and sugar maples the way they did 150 years ago. These pieces of land, restored to their original natural beauty, are living museums—reminders to ourselves and our children of the magnificence of Wisconsin's native landscape.

Much of this land restoration is due to the Conservation Reserve Program, a federal program that, in effect, rents land from farmers and restores it to its natural state. Wisconsin farmers have enthusiastically embraced this effort enrolling 72,000 acres of land in the CRP this year along. Altogether, the CRP has restored 600,000 acres of land in Wisconsin.

Despite this program's great success—in Wisconsin and rural areas across the country—a provision of the 1996 farm bill has inadvertently put the CRP in jeopardy. Section 11 of the farm bill capped the administrative costs that the USDA can pay out on any program. The provision was an attempt to slow some over-enthusiastic compute purchasing at the USDA. Unfortunately, it also capped the technical assistance allowed under the CRP in a way that will make it illegal for the CRP to identify or enroll new acres after May of this year. Our amendment today, by adding $28 million for these necessary administrative functions, will allow the CRP to continue its work.

Our offset today is from the food stamp reserve fund, and I want to say a word about that. Every year, we put aside more money than we anticipate we will need to cover our food stamps obligations. We do so in order to make sure that that very vital anti-hunger program is available even if demand increases because of an unexpected economic downturn. As the year progresses without such a downturn, it is appropriate and responsible budgeting to move some of those funds, which will not be needed, into areas where there is pressing needs.

That said, we still must keep a reasonable balance in reserve for food stamps, and in no way should this fund be viewed by others with amendments as a piggy bank.

The CRP is an example of an environmental program that successfully marries the interests of farmers, conservationists, and nature lovers. It is voluntary, it is local in direction, it is effective. I am glad we were able to agree to keep such a worthy program alive this year, and I thank my colleagues who have helped clear this amendment.

AMENDMENT NO. 116

(Purpose: To appropriate additional funds to the fund maintained for funds made available under section 32 of the Act of August 24, 1935, and to authorize the Secretary of Agriculture to waive the limitation on the amount of such funds that may be devoted during fiscal year 1999 to 1 agricultural commodity or product thereof, with an offset)

On page 2, between lines 20 and 21, insert the following:

FUNDS FOR STRENGTHENING MARKETS, INCOME, AND SUPPLY

(SECTION 32)

For an additional amount for the fund maintained for funds made available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), $150,000,000: *Provided*, That the entire amount shall be available only to the extent an official budget request for $150,000,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: *Provided further*, That the entire amount is designated by Congress as an emergency requirement under section 251(b)(2)(A) of such Act.

On page 7, between lines 8 and 9, insert the following:

GENERAL PROVISION, THIS CHAPTER

SEC. ____. The Secretary of Agriculture may waive the limitation established under the second sentence of the second paragraph of section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), on the amount of funds that may be devoted during fiscal year 1999 to any 1 agricultural commodity or product thereof.

On page 37, line 9, strike ''$285,000,000'' and insert ''$435,000,000''.

Mr. ASHCROFT. Mr. President, I rise today to join the senior senator from Missouri, Senator BOND, in offering an amendment to help the plight of the hog farmers in the state of Missouri. Hog farmers in our home state, and across the nation, are experiencing a disaster outside of their control, much like a flood, drought, or disease. It was projected that 25 to 40 percent of Missouri's pork producers would lose their family farms if we do not take immediate and substantial action. That is why we have offered this amendment.

The statistics are devastating. Since June 1998, pork farmers experienced a roughly 70 percent decline in pork prices, from $40 per hundredweight to $9 per hundredweight. The 1998 average price was an astounding 30 percent below the average price in 1932. In 1933, market hogs brought $3.53 a hundredweight, which is $47.29 in today's dollars.

There was a $2.6 billion equity meltdown on hog farms across America, and Economist Glen Grimes, at the University of Missouri, projects that hog farmers will suffer another one billion loss in 1999.

Some hog farmers have told me that they would have been better off financially if their hogs had simply been destroyed by a natural disaster. At one point, the feed the hogs were eating was worth more than the hogs themselves. And not long ago, consumers were paying more for a canned ham than the 260-pound hog it came from.

To address this disaster on hog farms across America, the Administration committed $50 million to their plight. While this amount sends a message of support to hog farmers, it is inadequate in light of the severity of the crisis to our family farms.

The Missouri Farm Bureau and the Missouri Pork Producers requested our assistance, and we have responded. Today, Senator BOND and I are offering this amendment, which makes $250 million available for farmers struggling to survive the severe drop in pork prices. Under the amendment, the U.S. Department of Agriculture would be provided with $150 million new funds and would be given the authority to use another $100 million, that the USDA already has, to help hog farmers.

The amendment sends a clear and resounding message of support to Missouri's hog farmers. In my recent trips to Missouri, I met with numerous hog farmers and was alarmed to hear them say that many of them would have to sell the family farm if we do not act expediently. This situation demands action, and I have taken immediate action at the request of Missouri's family farmers.

It is the understanding of those of us that have offered this amendment today that the majority of the funds available to the Secretary of Agriculture will be used on behalf of our nation's pork farmers. Last year, all of the major commodity groups received disaster assistance, but the hog farmers received nothing.

In current law (Section 32 of the Act of August 24, 1935) the Department of Agriculture has broad authority to reestablish farmers' purchasing power by making payments, to encourage domestic consumption by diverting surpluses to low-income groups, and to encourage the export of farm products through producer payments or other means. However, the amount devoted to any one commodity shall not exceed 25 percent of the Section 32 funds. Most recently, the USDA recently used its Section 32 authority to make a $50 million direct cash payment to pork producers.

Our amendment adds $150 million to the USDA Section 32 Fund, to be used for hog farmers, and it waives the 25 percent cap on the USDA Section 32 Fund for the remainder of fiscal year 1999. These funds would be made available to help the current emergency situation in the pork industry.

In addition to today's amendment, I would also like to mention some of the initiatives that I have worked on with the Missouri Farm Bureau and the Missouri Pork Producers in order to address the pork crisis:

Initiated a request, with Senator BOB KERREY (D-NE), to U.S. Trade Representative Charlene Barshefsky successfully urging her to add European Union pork to the U.S. trade retaliation list against the EU's unfair trade practices.

Requested that the U.S. Government buy excess hogs from farmers and ship U.S. pork as emergency assistance to Central America.

Wrote to the Prime Minister of Canada urging him to resolve work stoppage in the Ontario pork packers plant so that Canada can slaughter its hogs instead of flooding our slaughter houses with Canadian hogs.

Wrote to the President and the Secretary of Agriculture requesting that they use all their authority to ensure that no unfair competition or antitrust practices exist in domestic pork markets. It concerns me that farmer's prices for hogs at the farm gate have plummeted while prices at the cash register have not dropped equally for the consumer.

Requested of the Administration an immediate moratorium on burdensome new federal regulations affecting hog producers, and wrote to the President to ease paperwork requirements placed on farmers and banks so that the money can quickly get to those who need it.

Introduced a congressional resolution (S. Con. Res. 4) with Senator MAX BAUCUS which demands that South Korea end its unfair trade practices and subsidies that hurt American pork producers. The resolution also urges the U.S. Trade Representative, the Secretary of Treasury, and the Secretary of Agriculture to take immediate action against such harmful Korean subsidies.

AMENDMENT NO. 117

(Purpose: To provide funding for rural water infrastructure)

On page 37, line 9 strike ''$313,000,000'' and insert in lieu thereof ''$343,000,000''.

On page 5, after line 20 insert the following:

RURAL COMMUNITY ADVANCEMENT PROGRAM

For an additional amount for the costs of direct loans and grants of the rural utilities programs described in section 381E(d)(2) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009f), as provided in 7 U.S.C. 1926(a) and 7 U.S.C. 1926C for distribution through the national reserve, $30,000,000, of which $25,000,000 shall be for grants under such program: *Provided*, That the entire amount shall be available only to the extent an official budget request for $30,000,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(A) of such Act.

AMENDMENT NO. 118

At the appropriate place in the bill insert the following new section:

SEC. . Notwithstanding any other provision of law, monies available under section 763 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 shall be provided by the Secretary of Agriculture directly to any state determined by the Secretary of Agriculture to have been materially affected by the commercial fishery failure or failures declared by the Secretary of Commerce in September, 1998 under section 312(a) of the Magnuson-Stevens Fishery Conservation and Management Act. Such state shall disburse the funds to individuals with family incomes below the federal poverty level who have been adversely affected by the commercial fishery failure or failures. *Provided*, That the entire amount shall be available only to the extent an official budget request for such amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress. *Provided further*, That the entire amount is designated by Congress as an emergency requirement under section 251(b)(2)(A) of such Act.

AMENDMENT NO. 119

On page 2, line 11, strike $20,000,000 and insert $25,000,000.

On page 2, line 13, strike $20,000,000 and insert $25,000,000.

On page 37, line 9, increase the amount by $5,000,000.

Mrs. FEINSTEIN. Mr. President, this amendment increases funding for USDA's Emergency Grants to Assistance Low-Income Migrant and Seasonal Farmworkers program by $5 million. The increase in funding is provided to cover additional needs, including a possible increase in WIC caseload as a result of the devastating citrus freeze which impacted California last December.

I understand the amendment has been agreed to on both sides, and I urge its adoption.

Mr. STEVENS. Mr. President, I ask for the adoption of these amendments en bloc.

The PRESIDING OFFICER. Without objection, the amendments are agreed to.

The amendments (Nos. 115 through 119) were agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendments were agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. 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. STEVENS. 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. STEVENS. Mr. President, I ask unanimous consent that the amendment entitled ''1998 Disaster'' for Senator BOND be deleted from the list and that an amendment listed for Senator ASHCROFT entitled ''Emergency Assistance to USDA'' be deleted.

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

Mr. STEVENS. 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. STEVENS. I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENT NO. 120

(Purpose: To provide authority and appropriations for the Department of State to carry out certain counterdrug research and development activities)

Mr. STEVENS. Mr. President, I send to the desk an amendment for Senator DEWINE and others to provide authority and funds for the Department of State's counterdrug program. This amendment includes an appropriate offset for the additional spending that is authorized.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] for Mr. DEWINE, for himself, Mr. BURNS and Mr. COVERDELL, proposes an amendment numbered 120:

On page 24, between lines 2 and 3, insert the following:

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

For an additional amount for ''International Narcotics Control and Law Enforcement'', $23,000,000, for additional counterdrug research and development activities: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That such amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in such Act is transmitted by the President to the Congress.

On page 27 increase the amount of the rescission on line 9 by $23,000,000.

On page 44, between lines 11 and 12, insert the following:

(b) Section 832(a) of the Western Hemisphere Drug Elimination Act (Public Law 105–277) is amended—

(1) in the first sentence—

(A) by striking ''Secretary of Agriculture'' and inserting ''Secretary of State''; and

(B) by striking ''the Agricultural Research Service of the Department of Agriculture'' and inserting ''the Department of State'';

(2) in paragraph (5), by inserting ''(without regard to any requirement in law relating to public notice or competition)'' after ''to contract''; and

(3) by adding at the end the following:

''Any record related to a contract entered into, or to an activity funded, under this subsection shall be exempted from disclosure as described in section 552(b)(3) of title 5, United States Code.''.

Mr. STEVENS. 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. STEVENS. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. STEVENS. I ask that we proceed with the amendment at the desk.

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

The amendment (No. 120) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. STEVENS. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. STEVENS. Mr. President, earlier today we had an amendment that I did not move to reconsider and I indicated I would move to reconsider at a later time.

The PRESIDING OFFICER. That was amendment No. 80.

Mr. STEVENS. And the purpose?

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

To defer section 8 assistance for expiring contracts until October 1, 1999.

Mr. STEVENS. That amendment was agreed to. I move to reconsider the vote, and I ask unanimous consent that the motion to reconsider be laid on the table.

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

The motion to lay on the table was agreed to.

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. STEVENS. 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

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate now proceed to a period for morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, March 17, 1999, the Federal debt stood at $5,641,694,979,239.08 (Five trillion, six hundred forty-one billion, six hundred ninety-four million, nine hundred seventy-nine thousand, two hundred thirty-nine dollars and eight cents).

One year ago, March 17, 1998, the Federal debt stood at $5,536,664,000,000 (Five trillion, five hundred thirty-six billion, six hundred sixty-four million).

Five years ago, March 17, 1994, the Federal debt stood at $4,553,032,000,000 (Four trillion, five hundred fifty-three billion, thirty-two million).

Ten years ago, March 17, 1989, the Federal debt stood at $2,736,679,000,000 (Two trillion, seven hundred thirty-six billion, six hundred seventy-nine million) which reflects a debt increase of almost $3 trillion—$2,905,015,979,239.08 (Two trillion, nine hundred five billion, fifteen million, nine hundred seventy-nine thousand, two hundred thirty-nine dollars and eight cents) during the past 10 years.

CITY OF NEW ORLEANS CRASH

Mr. FITZGERALD. Mr. President, as my colleagues know, a tragic accident occurred in Bourbonnais, Illinois on Monday night when an Amtrak passenger train, the City of New Orleans, collided with a tractor trailer carrying steel rods. According to the National Transportation Safety Board, NTSB, a crew of 18 people and 196 passengers were aboard the City of New Orleans when the accident occurred.

Eleven people lost their lives in the accident, NTSB officials report. I wish to convey my deepest sympathy to the families of the victims and all others who have been touched by this tragedy. Illinois grieves with you.

I would also like to recognize the dedication of the local and State officials and citizens who have prevented this tragedy from becoming even worse. Local citizens worked through the night and into the early morning to locate victims, free them from the wreckage, and treat their injuries. Public safety officials from Bourbonnais, and from the communities and counties surrounding it, worked above and beyond the call of duty to save lives, rescue survivors, and prevent further harm from occurring.

Additionally, Federal officials from the Department of Transportation, the National Transportation Safety Board, the Highway Administration, the Railroad Administration, and Health and Human Services have traveled to Illinois to lend their expertise in the aftermath of this horrible accident.

And finally, nonprofit organizations like the American Red Cross have also served the victims, families, and friends associated with this accident. At times like this we remember the fragility of human life, and recognize the magnanimity of the human spirit. We commend the many volunteers and officials involved with the city of New Orleans accident. Their dedication to the welfare of those injured will be remembered in perpetuity.

Mr. COCHRAN. Mr. President, we were all saddened by the accident involving the City of New Orleans Amtrak train in Illinois on Monday night.

Several Mississippians lost their lives in the accident including June Bonnin of Nesbit, and Raney and Lacey Lipscomb of Lake Cormorant. I know my colleagues join me in extending our sympathy to their families.

Mr. President, as is so often the case, tragedies such as this can bring out the best in individuals. Based on information provided to my office, it appears that three of the students from Covenant Christian High School in Clinton, Mississippi, who were on the train, became heroes.

These students were part of a group of 15 students returning from a spring break trip to Canada. According to persons on the scene, Michael Freeman, Caleb McNair, and Jeffrey Sartor, all 17-year-old Clinton residents, quickly reacted to the situation.

With fire quickly approaching from a nearby car, Michael and Caleb opened a window and began rescuing people trapped inside the train. Jeffrey and Mrs. Phyllis Hurley, a chaperone who was injured herself, began helping people get out of the train too.

Caleb also assisted firefighters in getting elderly people to safety and getting a young girl freed from the wreckage. When firefighters and other help arrived, Michael was still on top of a car helping people from other cars over to the closest ladder and down from the train. Even after the young men were escorted to the side, they continued to help carry stretchers of wounded to safety.

Mr. President, I extend my sympathy to all the victims and their families affected by the tragedy, and I commend the efforts of these young people and the many firefighters and emergency personnel who acted to save lives and assist the victims.

CERTIFIED NONSENSE

Mr. GRASSLEY. Mr. President, here we go again. It seems that around this time every year we launch into certification follies. The occasion is the annual requirement that the administration report to Congress on the progress or lack of progress that countries are making in cooperating on combating drugs. This debate more recently gets personalized around the issue of the certification of Mexico.

There seems to be two basic elements in this affair: The acceptance by some in Congress that the administration only lies on certification therefore we should do away with the process and quit the pretense. And those who argue that it is unfair to judge the behavior of others and to force the President to make such judgments.

I do not think that either of these views is accurate or does justice to the seriousness of the issues we are dealing with. They are also not consonant with the actual requirements in certification.

On the first point. The annual certification process does not require the administration to lie. If an administration chooses to do so, it is not the fault of the certification process. And the fix is not to change the law to enable a lie. The fix is to insist on greater honesty in the process and compliance with the legal requirements.

Now, the Congress is no stranger to elaborate misrepresentations from administrations. Given that fact, this does mean that differences in judgment necessarily mean that one party to the difference is lying. In the past, I have not accepted all the arguments by the administration in certifying Mexico.

Indeed, self-evident facts make such an acceptance impossible and the administration's insistence upon obvious daydreams embarrassing. But I have, despite this, supported the overall decision on Mexico. I have done this for several reasons.

Before I explain, let me summarize several passages from the law that requires the President to report to Congress. There seems to be some considerable misunderstanding about what it says. The requirement is neither unusual nor burdensome. The President must inform Congress if during the previous year any given major drug producing or transit country cooperated fully with the United States or international efforts to stop production or transit. These efforts can be part of a bilateral agreement with the United States. They can be unilateral efforts. Or they can be efforts undertaken in cooperation with other countries, or in conformity with international law.

In making this determination, the President is asked to consider several things: the extent to which the country has met the goals and objectives of the 1988 U.N. Convention on illicit drugs; the extent to which similar efforts are being made to combat money laundering and the flow of precursor chemicals; and the efforts being made to combat corruption.

The purpose for these requirements is also quite simple. It is a recognition by Congress, in response to public demand, that the U.S. Government take international illegal drug production and trafficking seriously. That it make this concern a matter of national interest. And that, in conjunction with our efforts here and abroad, other countries do their part in stopping production and transit. Imagine that. A requirement that we and others should take illicit drug production and transit seriously. That we should do something concrete about it. And that, from time to time, we should get an accounting of what was done and whether it was effective.

I do not read in this requirement the problem that many seem to see. This requirement is in keeping with the reality of the threat that illegal drugs pose to the domestic well-being of U.S. citizens. Illegal drugs smuggled into this country by criminal gangs resident overseas kill more Americans annually than all the terrorist attacks on U.S. citizens in the past 10 years. It is consistent with international law. And it is not unusually burdensome on the administration—apart from holding it to some realistic standard of accountability.

I know that administrations, here and abroad, are uncomfortable with such standards. But that shilly shally should not be our guide. Congress has a constitutional foreign policy responsibility every bit as fundamental as the President's. Part of that responsibility is to expect accountability. The certification process is a key element in that with respect to drugs.

To seek to retreat from the responsibility because an administration does not like to be accountable is hardly sufficient ground for a change. To do so because another country does not like explaining how it is doing in cooperating to deal with a serious threat to U.S. national interests is equally unacceptable. To argue that we should cease judging others because we have yet to do enough at home is a logic that borders on the absurd. To believe that claims of sovereignty by some country trumps external judgment on its behavior is to argue for a dangerous standard in international law. To argue that we should bury our independent judgment on this matter of national interest in some vague multilateralized process is a confidence trick.

Try putting this argument into a different context. Imagine for a moment making these arguments with respect to terrorism. Think about the consequences of ignoring violations of human rights because a country claims it is unfair to meddle in internal matters.

When it comes to drugs, however, some seem prepared to carve out an exception. It offends Mexico, so let's not hold them accountable. The administration will not be honest, so let's stop making the judgment.

The administration, we are informed, does not want to offend an important ally. Really? Well, it seems the administration likes to pick and choose. At the moment, the administration is considering and threatening sanctions against the whole European Union—that is some of our oldest allies. And over what issue? Bananas. To my knowledge, not a single banana has killed an American. However serious the trade issue is that is involved, major international criminal gangs are not targeting Americans with banana peels. They are not smuggling tons of bananas into this country illegally. They are not corrupting whole governments.

So, what we are being asked to accept is that sanctions are an important national interest when it comes to bananas but not for drugs. That it is okay to judge allies on cooperation on tropical fruit but not on dangerous drugs. This strikes me as odd. Do not get me wrong. I am not against bananas. I believe there are serious trade issues involved in this dispute over bananas. What strikes me as odd is that the administration is prepared to deploy serious actions against allies over this issue but finds it unacceptable to defend U.S. interests when it comes to drugs with similar dedication and seriousness.

But let me come back to Mexico and certification. I have two observations. The first concerns the requirements for certification. I refer again to the law. That is a good place to start. The requirement in the law is to determine whether a country is fully cooperating. It is not to judge whether a country is fully successful.

Frankly, that is an impossible standard to meet. One that we would fail. I agree, that deciding what full cooperation looks like is a matter of judgment. But to those who argue that certification limits the President's flexibility, on the contrary, it gives scope to just that in reaching such a decision. It is a judgment call. Sometimes a very vexed judgment.

Nevertheless, one can meet a standard of cooperation that is not bringing success. In such a case, an over-reliance upon purely material standards of evaluation cannot be our only guide. How many extraditions, how many new laws, how many arrests, how many drugs seized are not our only measures for judgment. There are others. And in the case of Mexico there is a major question that must be part of our thinking.

Unless the United States can and is prepared unilaterally to stop drug production and trafficking in Mexico, then we have two choices. To seek some level of cooperation with legitimate authority in Mexico to give us some chance of addressing the problem. Or, to decide no cooperation is possible and to seal the border. The latter course, would involve an immense undertaking and is uncertain of success. It would also mean abandoning Mexico at a time of crisis to the very criminal gangs that threaten both countries. In my view, we cannot decertify Mexico until we can honestly and dispassionately answer this question: Is what we are getting in the way of cooperation from Mexico so unacceptable on this single issue that our only option is to tear up our rich and varied bilateral relationship altogether?

However frustrating our level of cooperation may be, I continue to think that we have not reached the point of hopelessness. And there are encouraging signs along with the disappointments. Having said this, I do not believe that we can or should forego judgment on the continuing nature of cooperation. With Mexico or with any country. To those who would change the certification process I would say, let's give the process a chance not a change. Let's actually apply it. This does not mean in some rote way. But wisely. With understanding. With due regard to both the nuance of particular situations and a sense of responsibility.

REFERRAL OF S. 623

Mr. STEVENS. Mr. President, I ask unanimous consent that S. 623 be discharged from the Committee on Environment and Public Works and referred to the Committee on Energy and Natural Resources.

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

AUTHORIZATION OF SENATE REPRESENTATION

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 70, submitted earlier today by Senators LOTT and DASCHLE.

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

The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 70) to authorize representation of Senate and Members of the Senate in the case of James E. Pietrangelo, II v. United States Senate, et al.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. LOTT. Mr. President, this resolution concerns a civil action commenced in the United States District Court for the Northern District of Ohio against the United States Senate and all Members of the Senate by a pro se plaintiff during the impeachment trial of President Clinton. The amended complaint improperly seeks judicial intervention directing Senators on how they should have voted on the question of whether to convict on the impeachment articles.

The action is subject to dismissal on numerous jurisdictional grounds, including lack of constitutional standing, political question, sovereign immunity, and the Speech or Debate Clause. This resolution authorizes the Senate Legal Counsel to represent the Senate and Senators in this suit to move for its dismissal.

Mr. STEVENS. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 70) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 70

Whereas, in the case of *James E. Pietrangelo, II* v. *United States Senate, et al.*, Case No. 1:99–CV–323, pending in the United States District Court for the Northern District of Ohio, the plaintiff has named the United States Senate and all Members of the Senate as defendants;

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(1), the Senate may direct its counsel to defend the Senate and Members of the Senate in civil actions relating to their official responsibilities: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to represent the Senate and all Members of the Senate in the case of *James E. Pietrangelo, II* v. *United States Senate, et al.*

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.)

REPORT OF THE NATIONAL ENDOWMENT FOR DEMOCRACY FOR FISCAL 1998—MESSAGE FROM THE PRESIDENT—PM 17

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations.

To the Congress of the United States:

As required by the provisions of section 504(h) of Public Law 98–164, as amended (22 U.S.C. 4413(i)), I transmit herewith the 15th Annual Report of the National Endowment for Democracy, which covers fiscal year 1998.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 18, 1999*.

REPORT OF THE CORPORATION FOR PUBLIC BROADCASTING—MESSAGE FROM THE PRESIDENT—PM 18

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Commerce, Science, and Transportation.

To the Congress of the United States:

As required by section 19(3) of the Public Telecommunications Act of 1992 (Public Law 102–356), I transmit herewith a report of the Corporation for Public Broadcasting. This report outlines, first, the Corporation's efforts to facilitate the continued development of superior, diverse, and innovative programming and, second, the Corporation's efforts to solicit the views of the public on current programming initiatives.

This report summarizes 1997 programming decisions and outlines how Corporation funds were distributed—$47.9 million for television program development, $18.8 million for radio programming development, and $15.6 million for general system support. The report also reviews the Corporation's Open to the Public campaign, which allows the public to submit comments via mail, a 24-hour toll-free telephone line, or the Corporation's Internet website.

I am confident this year's report will meet with your approval and commend, as always, the Corporation's efforts to deliver consistently high quality programming that brings together American families and enriches all our lives.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 18, 1999*.

MESSAGES FROM THE HOUSE

At 1:30 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 bills, in which it requests the concurrence of the Senate:

H.R. 820. An act to authorize appropriations for fiscal years 2000 and 2001 for the Coast Guard, and for other purposes.

H.R. 975. An act to provide for a reduction in the volume of steel imports, and to establish a steel import notification and monitoring program.

The message also announced that pursuant to the provisions of public law 96–388, as amended by Public Law 97–84 (36- U.S.C. 1402(a)), the Speaker appoints the following Members of the House to the United States Holocaust Memorial Council: Mr. GILMAN of New York, Mr. LATOURETTE of Ohio, and Mr. CANNON of Utah.

MEASURE REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 820. An act to authorize appropriations for fiscal years 2000 and 2001 for the Coast Guard, and for other purposes; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

S. 334. A bill to amend the Federal Power Act to remove the jurisdiction of the Federal Energy Regulatory Commission to license projects on fresh waters in the State of Hawaii (Rept. No. 106–26).

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. REED:

S. 656. A bill to provide for the adjustment of status of certain nationals of Liberia to that of lawful permanent residence; to the Committee on the Judiciary.

By Mr. INHOFE:

S. 657. A bill to amend the Internal Revenue Code of 1986 to expand the availability

of medical savings accounts, and for other purposes; to the Committee on Finance.

By Mr. GRAMM (for himself, Mrs. HUTCHISON, Mr. DOMENICI, Mr. BINGAMAN, Mr. KYL, Mr. MCCAIN, Mrs. FEINSTEIN, Mrs. BOXER, and Mr. GORTON):

S. 658. A bill to authorize appropriations for the United States Customs Service for fiscal years 2000 and 2001; to the Committee on Finance.

By Mr. MOYNIHAN (for himself, Mr. ROBB, and Mr. KERREY):

S. 659. A bill to amend the Internal Revenue Code of 1986 to require pension plans to provide adequate notice to individuals whose future benefit accruals are being significantly reduced, and for other purposes; to the Committee on Finance.

By Mr. BINGAMAN (for himself, Mr. CRAIG, Ms. MIKULSKI, Mr. THURMOND, Mr. DASCHLE, Ms. COLLINS, Mr. JOHNSON, Ms. SNOWE, Mr. DORGAN, Mr. MACK, Mr. HOLLINGS, Mr. REED, Mr. CONRAD, and Mr. CRAPO):

S. 660. A bill to amend title XVIII of the Social Security Act to provide for coverage under part B of the medicare program of medical nutrition therapy services furnished by registered dietitians and nutrition professionals; to the Committee on Finance.

By Mr. ABRAHAM (for himself, Mr. HATCH, Mr. LOTT, Mr. SESSIONS, Mr. NICKLES, Mr. COVERDELL, Mr. CRAIG, Mr. KYL, Mr. ENZI, Mr. MCCAIN, Mr. HUTCHINSON, Mr. SANTORUM, Mr. BROWNBACK, Mr. INHOFE, Mr. SMITH of New Hampshire, Mr. HELMS, Mr. GRASSLEY, and Mr. DEWINE):

S. 661. A bill to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions; to the Committee on the Judiciary.

By Mr. CHAFEE (for himself, Ms. MIKULSKI, Mr. MOYNIHAN, Ms. SNOWE, Mr. SMITH of Oregon, Mr. HARKIN, Mr. COCHRAN, Mr. DURBIN, Mrs. MURRAY, Mr. LEAHY, Mr. ROCKEFELLER, Mr. LIEBERMAN, Mr. LAUTENBERG, Mrs. FEINSTEIN, Mr. BINGAMAN, Mr. SARBANES, Mr. HOLLINGS, Mr. WELLSTONE, Mr. CLELAND, Mr. KENNEDY, Mr. JOHNSON, Mr. ROBB, Mrs. BOXER, Mr. REID, and Mr. KERREY):

S. 662. A bill to amend title XIX of the Social Security Act to provide medical assistance for certain women screened and found to have breast or cervical cancer under a federally funded screening program; to the Committee on Finance.

By Mr. SPECTER:

S. 663. A bill to impose certain limitations on the receipt of out-of-State municipal solid waste, to authorize State and local controls over the flow of municipal solid waste, and for other purposes; to the Committee on Environment and Public Works.

By Mr. CHAFEE (for himself, Mr. GRAHAM, Mr. JEFFORDS, and Mr. BREAUX):

S. 664. A bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax to individuals who rehabilitate historic homes or who are the first purchasers of rehabilitated historic homes for use as a principal residence; to the Committee on Finance.

By Mr. COVERDELL (for himself, Mr. HAGEL, Mrs. HUTCHISON, Mr. KYL, Mr. INHOFE, and Mr. GRASSLEY):

S. 665. A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to prohibit the consideration of retroactive tax increases; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. LUGAR (for himself, Mr. GRAMM, Mr. MCCAIN, Mr. DEWINE, Mr. HAGEL, Mr. GRAMS, Mr. JEFFORDS, Ms. LANDRIEU, and Mr. LIEBERMAN):

S. 666. A bill to authorize a new trade and investment policy for sub-Saharan Africa; to the Committee on Finance.

By Mr. MCCAIN:

S. 667. A bill to improve and reform elementary and secondary education; to the Committee on Finance.

By Mr. COVERDELL:

S.J. Res. 15. A joint resolution proposing an amendment to the Constitution of the United States to prohibit retroactive increases in taxes; 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. COVERDELL (for himself, Mr. HAGEL, Mrs. HUTCHISON, Mr. KYL, Mr. INHOFE, and Mr. GRASSLEY):

S. Res. 69. A resolution to prohibit the consideration of retroactive tax increases in the Senate; to the Committee on Rules and Administration.

By Mr. LOTT (for himself and Mr. DASCHLE):

S. Res. 70. A resolution to authorize representation of Senate and Members of the Senate in the case of James E. Pietrangelo, II v. United States Senate, et al; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. INHOFE:

S. 657. A bill to amend the Internal Revenue Code of 1986 to expand the availability of medical savings accounts, and for other purposes; to the Committee on Finance.

MEDICAL SAVINGS ACCOUNT EXPANSION ACT OF 1999

Mr. INHOFE. Mr. President, I am pleased to rise today to introduce the Medical Savings Account Expansion Act of 1999. There has been much said recently regarding the need to reform health care. I agree with many of my colleagues that health care is indeed in need of serious reform. However, the nature and the scope of reforms are open to debate.

During the health care debate of 1996, the Congress focused its efforts on attempting to provide the uninsured with insurance. Included in the legislation, Congress created a demonstration project in order to test the effectiveness of Medical Savings Accounts. However, in establishing the demonstration project, the Congress created numerous legislative roadblocks to the success of Medical Savings Accounts.

As we are all aware, Medical Savings Accounts combine a high deductible insurance policy and tax exempt accounts for the purpose of providing health care. MSA holders use these accounts to purchase routine health care services. When account holders spend all of the funds in their account and reach their annual deductible, their health insurance policy kicks in. If they don't spend all the money in the account, they get to keep what's left, plus interest for the following year.

The creation of Medical Savings Accounts was the result of a bipartisan coalition that many in the Senate worked long and hard to achieve. Medical Savings Accounts are really based on a simple principle that should be at the heart of the health care reform, that being, empowering people to take control of their own health care improves the system for everyone. Expanding MSAs is one small, but important, step in that regard. Providing individuals with an incentive to save money on their health care costs encourages them to be better consumers. The result is much needed cost control and consumer responsibility.

Mr. President, I think as the Congress begins to discuss health care reform this year, we must move away from the debate on the regulation and rationing of health care and focus our energies on providing health care to the uninsured. Instead of concentrating our efforts on reforms that will likely result in less health care, we should be trying to expand the opportunity for health care. At the same time, we must do so in a cost effective and market oriented way. MSAs meet that goal.

According to the General Accounting Office, more than 37% of the people who have opted to buy an MSA under the 1996 law were previously uninsured. That bears repeating; people who have previously been uninsured, are now buying health insurance. We need to make it possible for more people to obtain health care insurance. Now, compare those 37% of previously uninsured who now have health insurance with the projected 400,000 people who would lose their current health insurance if the Congress does something that would raise current health insurance premiums by just one percentage point and the argument becomes even stronger to expand the use of MSAs.

Mr. President, the legislation I am introducing today does just that, it makes Medical Savings Accounts more readily available to more people by eliminating many of the legislative and regulatory roadblocks to their continued success. The GAO report referred to earlier, points out that one of the key reasons why MSAs have not been as successful as originally thought is the complexity of the law.

Let me touch on a just few of the problems my legislation addresses. First is the scope of the demonstration project. Mr. President, I believe we should drop the 750,000 cap and extend the life of the project indefinitely. The 750,000 cap is merely an arbitrary number negotiated by the Congress. By lifting the cap and making MSAs permanent, we will be allowing the market to decide whether MSAs are a viable alternative in health insurance. The cap

and the limited time constraint create a disincentive for insurance companies to provide MSAs as an option. The GAO study I cited earlier supports this conclusion. The majority of companies who offered MSA plans did so in order to preserve a share of the market. The result, few, if any, are aggressively marketing MSAs. If Congress is serious about testing the effectiveness of MSAs in the marketplace, we must free them from unnecessary and arbitrarily imposed restraints.

Second, under current law, either an employer or an employee can contribute directly to an MSA, but not both. The legislation I am introducing would allow both employers and employees to contribute to a Medical Savings Account. This just makes sense. By limiting who can contribute to an individual MSA, the government has predetermined the limits of contributions. I think many employers would prefer to contribute to an individual's health care account, rather than continue the costly, third-party payer system. By allowing both employers and employees to contribute to MSAs, we will be giving more flexibility to Medical Savings Accounts. That flexibility will allow more people to obtain MSAs and undoubtedly contribute to their success.

One of the arguments frequently made against MSAs is that they are for the rich. Certainly that is an understandable conclusion, given the fact that we limit who can contribute to MSAs. By lifting the contribution restrictions, individuals of all income levels will find MSAs a viable health care alternative.

As I travel throughout Oklahoma, a common complaint is the access to quality health care and the rising cost of health care. In my state, managed care is not always an option for many people in rural areas. However, Medical Savings Accounts are an option for many families because MSAs give them the choice to pursue individualized health care that fits their needs. These are the sorts of solutions that our constituents have sent us to Washington to find. They are not interested in more government. In fact, many want less. Yet, all we offer them is differing degrees of government intrusion in their lives.

Mr. President, the debate in the 105th Congress clearly demonstrated we are all concerned about access to health care, doctor choice, cost, and security. As the debate moves forward in the 106th Congress, I want to urge my colleagues to consider alternatives to further big-government and to be bold enough to pursue them.

Mr. President, I ask that the full text of the bill be printed in the RECORD.

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

S. 657

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 ''Medical Savings Account Expansion Act of 1999''.

SEC. 2. REPEAL OF RESTRICTIONS ON TAXPAYERS HAVING MEDICAL SAVINGS ACCOUNTS.

(a) REPEAL OF NUMERICAL LIMITATIONS AND TERMINATION.—

(1) IN GENERAL.—Section 220 of the Internal Revenue Code of 1986 (relating to medical savings accounts) is amended by striking subsections (i) and (j).

(2) MEDICARE+CHOICE.—Section 138 of such Code (relating to Medicare+Choice MSA) is amended by striking subsection (f).

(3) CONFORMING AMENDMENT.—Section 220(c)(1) of such Code is amended by striking subparagraph (D).

(b) REPEAL OF RESTRICTIONS ON INDIVIDUALS WHO HAVE MEDICAL SAVINGS ACCOUNTS.—

(1) IN GENERAL.—Section 220(c)(1)(A) of the Internal Revenue Code of 1986 (relating to eligible individual) is amended by inserting ''and'' at the end of clause (i), by striking '', and'' at the end of clause (ii)(II) and inserting a period, and by striking clause (iii).

(2) CONFORMING AMENDMENTS.—

(A) Section 220(b) of such Code is amended by striking paragraph (4) and by redesignating paragraphs (5), (6), and (7) as paragraphs (4), (5), and (6), respectively.

(B) Section 220(c)(1) of such Code, as amended by subsection (a)(3), is amended by striking subparagraph (C).

(C) Section 220(c) of such Code is amended by striking paragraph (4) and by redesignating paragraph (5) as paragraph (4).

(c) REPEAL OF RESTRICTION ON JOINT EMPLOYER-EMPLOYEE CONTRIBUTIONS.—Section 220(b) of the Internal Revenue Code of 1986 (relating to limitations) is amended by striking paragraph (4), as redesignated by subsection (b)(2)(A), and by redesignating paragraphs (5) and (6) (as so redesignated) as paragraphs (4) and (5), respectively.

(d) 100 PERCENT FUNDING OF ACCOUNT ALLOWED.—

(1) IN GENERAL.—Section 220(b)(2) of the Internal Revenue Code of 1986 (relating to monthly limitation) is amended to read as follows:

''(2) MONTHLY LIMITATION.—The monthly limitation for any month is the amount equal to 1/12 of the annual deductible of the high deductible health plan of the individual as of the first of such month.''.

(2) CONFORMING AMENDMENT.—Section 220(d)(1)(A) of such Code is amended by striking ''75 percent of''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to months beginning after the date of enactment of this Act.

(2) COMPENSATION LIMIT REPEAL.—The amendments made by subsection (b)(2)(A) shall apply to taxable years beginning after December 31, 1999.

SEC. 3. REDUCTION IN HIGH DEDUCTIBLE PLAN MINIMUM ANNUAL DEDUCTIBLE

(a) IN GENERAL.—Section 220(c)(2)(A) of the Internal Revenue Code of 1986 (relating to high deductible health plan) is amended—

(1) by striking ''$1,500'' in clause (i) (relating to self-only coverage) and inserting ''$1,000'', and

(2) by striking ''$3,000'' in clause (ii) (relating to family coverage) and inserting ''$2,000''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2000.

By Mr. GRAMM (for himself, Mrs. HUTCHISON, Mr. DOMENICI, Mr. BINGAMAN, Mr. KYL, Mr. MCCAIN, Mrs. FEINSTEIN, Mrs. BOXER, and Mr. GORTON):

S. 658. A bill to authorize appropriations for the United States Customs Service for fiscal years 2000 and 2001; to the Committee on Finance.

PROTECTION OF U.S. BORDERS

Mr. GRAMM. Mr. President, on behalf of Senators HUTCHISON, BINGAMAN, DOMENICI, KYL, MCCAIN, BOXER, FEINSTEIN, and GORTON, I am introducing legislation today which will authorize the United States Customs Service to acquire the necessary personnel and technology to reduce delays at our border crossings with Mexico and Canada to no more than 20 minutes, while strengthening our commitment to interdict illegal narcotics and other contraband.

This bill represents the progress that we made in this regard in the last Congress, and it builds on efforts that we initiated last year. This legislation passed the Senate unanimously on October 8, 1998, and a similar companion bill passed the House of Representatives on May 19, 1998 by a vote of 320–86. In addition to the resources dedicated to our nation's land borders, this bill also incorporates the efforts of Senators GRASSLEY and GRAHAM in adding resources for interdiction efforts in the air and along our coastline, provisions that were passed by the Senate in last year's bill.

I am very concerned about the impact of narcotics trafficking on Texas and the nation and have worked closely with federal and state law enforcement officials to identify and secure the necessary resources to battle the onslaught of illegal drugs. At the same time, however, our current enforcement strategy is burdened by insufficient staffing, a gross underuse of vital interdiction technology, and is effectively closing the door to legitimate trade.

At a time when NAFTA and the expanding world marketplace are making it possible for us to create more commerce, freedom and opportunity for people on both sides of the border, it is important that we eliminate the border crossing delays that are stifling these goals. In order for all Americans to fully enjoy the benefits of growing trade with Mexico and Canada, we must ensure that the Customs Service has the resources necessary to accomplish its mission. Customs inspections should not be obstacles to legitimate trade and commerce. Customs staffing needs to be increased significantly to facilitate the flow of substantially increased traffic on both the Southwestern and Northern borders, and these additional personnel need the modern technology that will allow them to inspect more cargo, more efficiently. The practical effect of these increases will be to open all the existing primary inspection lanes where congestion is a problem during peak hours and to enhance investigative capabilities on the Southwest border.

Long traffic lines at our international crossings are counterproductive to improving our trade relationship with Mexico and Canada. This bill is designed to shorten those lines and promote legitimate commerce, while providing the Customs Service with the means necessary to tackle the drug trafficking operations that are now rampant along the 1,200-mile border that my State shares with Mexico. I will be speaking further to my colleagues about this initiative and urge their support for the bill.

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. 658

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 ''Drug Free Borders Act of 1999''.

TITLE I—AUTHORIZATION OF APPROPRIATIONS FOR UNITED STATES CUSTOMS SERVICE FOR ENHANCED INSPECTION, TRADE FACILITATION, AND DRUG INTERDICTION

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

(a) DRUG ENFORCEMENT AND OTHER NONCOMMERCIAL OPERATIONS.—Subparagraphs (A) and (B) of section 301(b)(1) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(A) and (B)) are amended to read as follows:

''(A) $997,300,584 for fiscal year 2000.

''(B) $1,100,818,328 for fiscal year 2001.''.

(b) COMMERCIAL OPERATIONS.—Clauses (i) and (ii) of section 301(b)(2)(A) of such Act (19 U.S.C. 2075(b)(2)(A)(i) and (ii)) are amended to read as follows:

''(i) $990,030,000 for fiscal year 2000.

''(ii) $1,009,312,000 for fiscal year 2001.''.

(c) AIR AND MARINE INTERDICTION.—Subparagraphs (A) and (B) of section 301(b)(3) of such Act (19 U.S.C. 2075(b)(3)(A) and (B)) are amended to read as follows:

''(A) $229,001,000 for fiscal year 2000.

''(B) $176,967,000 for fiscal year 2001.''.

(d) SUBMISSION OF OUT-YEAR BUDGET PROJECTIONS.—Section 301(a) of such Act (19 U.S.C. 2075(a)) is amended by adding at the end the following:

''(3) By no later than the date on which the President submits to the Congress the budget of the United States Government for a fiscal year, the Commissioner of Customs shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the projected amount of funds for the succeeding fiscal year that will be necessary for the operations of the Customs Service as provided for in subsection (b).''.

SEC. 102. CARGO INSPECTION AND NARCOTICS DETECTION EQUIPMENT FOR THE UNITED STATES-MEXICO BORDER, UNITED STATES-CANADA BORDER, AND FLORIDA AND GULF COAST SEAPORTS.

(a) FISCAL YEAR 2000.—Of the amounts made available for fiscal year 2000 under section 301(b)(1)(A) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(A)), as amended by section 101(a) of this Act, $100,036,000 shall be available until expended for acquisition and other expenses associated with implementation and deployment of narcotics detection equipment along the United States-Mexico border, the United States-Canada border, and Florida and the Gulf Coast seaports, as follows:

(1) UNITED STATES-MEXICO BORDER.—For the United States-Mexico border, the following:

(A) $6,000,000 for 8 Vehicle and Container Inspection Systems (VACIS).

(B) $11,000,000 for 5 mobile truck x-rays with transmission and backscatter imaging.

(C) $12,000,000 for the upgrade of 8 fixed-site truck x-rays from the present energy level of 450,000 electron volts to 1,000,000 electron volts (1–MeV).

(D) $7,200,000 for 8 1–MeV pallet x-rays.

(E) $1,000,000 for 200 portable contraband detectors (busters) to be distributed among ports where the current allocations are inadequate.

(F) $600,000 for 50 contraband detection kits to be distributed among all southwest border ports based on traffic volume.

(G) $500,000 for 25 ultrasonic container inspection units to be distributed among all ports receiving liquid-filled cargo and to ports with a hazardous material inspection facility.

(H) $2,450,000 for 7 automated targeting systems.

(I) $360,000 for 30 rapid tire deflator systems to be distributed to those ports where port runners are a threat.

(J) $480,000 for 20 portable Treasury Enforcement Communications Systems (TECS) terminals to be moved among ports as needed.

(K) $1,000,000 for 20 remote watch surveillance camera systems at ports where there are suspicious activities at loading docks, vehicle queues, secondary inspection lanes, or areas where visual surveillance or observation is obscured.

(L) $1,254,000 for 57 weigh-in-motion sensors to be distributed among the ports with the greatest volume of outbound traffic.

(M) $180,000 for 36 AM traffic information radio stations, with 1 station to be located at each border crossing.

(N) $1,040,000 for 260 inbound vehicle counters to be installed at every inbound vehicle lane.

(O) $950,000 for 38 spotter camera systems to counter the surveillance of customs inspection activities by persons outside the boundaries of ports where such surveillance activities are occurring.

(P) $390,000 for 60 inbound commercial truck transponders to be distributed to all ports of entry.

(Q) $1,600,000 for 40 narcotics vapor and particle detectors to be distributed to each border crossing.

(R) $400,000 for license plate reader automatic targeting software to be installed at each port to target inbound vehicles.

(S) $1,000,000 for a demonstration site for a high-energy relocatable rail car inspection system with an x-ray source switchable from 2,000,000 electron volts (2–MeV) to 6,000,000 electron volts (6–MeV) at a shared Department of Defense testing facility for a two-month testing period.

(2) UNITED STATES-CANADA BORDER.—For the United States-Canada border, the following:

(A) $3,000,000 for 4 Vehicle and Container Inspection Systems (VACIS).

(B) $8,800,000 for 4 mobile truck x-rays with transmission and backscatter imaging.

(C) $3,600,000 for 4 1–MeV pallet x-rays.

(D) $250,000 for 50 portable contraband detectors (busters) to be distributed among ports where the current allocations are inadequate.

(E) $300,000 for 25 contraband detection kits to be distributed among ports based on traffic volume.

(F) $240,000 for 10 portable Treasury Enforcement Communications Systems (TECS) terminals to be moved among ports as needed.

(G) $400,000 for 10 narcotics vapor and particle detectors to be distributed to each border crossing based on traffic volume.

(H) $600,000 for 30 fiber optic scopes.

(I) $250,000 for 50 portable contraband detectors (busters) to be distributed among ports where the current allocations are inadequate;

(J) $3,000,000 for 10 x-ray vans with particle detectors.

(K) $40,000 for 8 AM loop radio systems.

(L) $400,000 for 100 vehicle counters.

(M) $1,200,000 for 12 examination tool trucks.

(N) $2,400,000 for 3 dedicated commuter lanes.

(O) $1,050,000 for 3 automated targeting systems.

(P) $572,000 for 26 weigh-in-motion sensors.

(Q) $480,000 for 20 portable Treasury Enforcement Communication Systems (TECS).

(3) FLORIDA AND GULF COAST SEAPORTS.—For Florida and the Gulf Coast seaports, the following:

(A) $4,500,000 for 6 Vehicle and Container Inspection Systems (VACIS).

(B) $11,800,000 for 5 mobile truck x-rays with transmission and backscatter imaging.

(C) $7,200,000 for 8 1–MeV pallet x-rays.

(D) $250,000 for 50 portable contraband detectors (busters) to be distributed among ports where the current allocations are inadequate.

(E) $300,000 for 25 contraband detection kits to be distributed among ports based on traffic volume.

(b) FISCAL YEAR 2001.—Of the amounts made available for fiscal year 2001 under section 301(b)(1)(B) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(B)), as amended by section 101(a) of this Act, $9,923,500 shall be for the maintenance and support of the equipment and training of personnel to maintain and support the equipment described in subsection (a).

(c) ACQUISITION OF TECHNOLOGICALLY SUPERIOR EQUIPMENT; TRANSFER OF FUNDS.—

(1) IN GENERAL.—The Commissioner of Customs may use amounts made available for fiscal year 2000 under section 301(b)(1)(A) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(A)), as amended by section 101(a) of this Act, for the acquisition of equipment other than the equipment described in subsection (a) if such other equipment—

(A)(i) is technologically superior to the equipment described in subsection (a); and

(ii) will achieve at least the same results at a cost that is the same or less than the equipment described in subsection (a); or

(B) can be obtained at a lower cost than the equipment described in subsection (a).

(2) TRANSFER OF FUNDS.—Notwithstanding any other provision of this section, the Commissioner of Customs may reallocate an amount not to exceed 10 percent of—

(A) the amount specified in any of subparagraphs (A) through (R) of subsection (a)(1) for equipment specified in any other of such subparagraphs (A) through (R);

(B) the amount specified in any of subparagraphs (A) through (Q) of subsection (a)(2) for equipment specified in any other of such subparagraphs (A) through (Q); and

(C) the amount specified in any of subparagraphs (A) through (E) of subsection (a)(3) for equipment specified in any other of such subparagraphs (A) through (E).

SEC. 103. PEAK HOURS AND INVESTIGATIVE RESOURCE ENHANCEMENT FOR THE UNITED STATES-MEXICO AND UNITED STATES-CANADA BORDERS, FLORIDA AND GULF COAST SEAPORTS, AND THE BAHAMAS.

Of the amounts made available for fiscal years 2000 and 2001 under subparagraphs (A) and (B) of section 301(b)(1) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(A) and (B)), as amended by section 101(a) of this Act, $159,557,000, including $5,673,600, until expended, for investigative equipment, for fiscal year 2000 and $220,351,000 for fiscal year 2001 shall be available for the following:

(1) A net increase of 535 inspectors, 120 special agents, and 10 intelligence analysts for the United States-Mexico border and 375 inspectors for the United States-Canada border, in order to open all primary lanes on such borders during peak hours and enhance investigative resources.

(2) A net increase of 285 inspectors and canine enforcement officers to be distributed at large cargo facilities as needed to process and screen cargo (including rail cargo) and reduce commercial waiting times on the United States-Mexico border and a net increase of 125 inspectors to be distributed at large cargo facilities as needed to process and screen cargo (including rail cargo) and reduce commercial waiting times on the United States-Canada border.

(3) A net increase of 40 inspectors at sea ports in southeast Florida to process and screen cargo.

(4) A net increase of 70 special agent positions, 23 intelligence analyst positions, 9 support staff, and the necessary equipment to enhance investigation efforts targeted at internal conspiracies at the Nation's seaports.

(5) A net increase of 360 special agents, 30 intelligence analysts, and additional resources to be distributed among offices that have jurisdiction over major metropolitan drug or narcotics distribution and transportation centers for intensification of efforts against drug smuggling and money-laundering organizations.

(6) A net increase of 2 special agent positions to re-establish a Customs Attache office in Nassau.

(7) A net increase of 62 special agent positions and 8 intelligence analyst positions for maritime smuggling investigations and interdiction operations.

(8) A net increase of 50 positions and additional resources to the Office of Internal Affairs to enhance investigative resources for anticorruption efforts.

(9) The costs incurred as a result of the increase in personnel hired pursuant to this section.

SEC. 104. AIR AND MARINE OPERATION AND MAINTENANCE FUNDING.

(a) FISCAL YEAR 2000.—Of the amounts made available for fiscal year 2000 under subparagraphs (A) and (B) of section 301(b)(3) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(3) (A) and (B)) as amended by section 101(c) of this Act, $130,513,000 shall be available until expended for the following:

(1) $96,500,000 for Customs aircraft restoration and replacement initiative.

(2) $15,000,000 for increased air interdiction and investigative support activities.

(3) $19,013,000 for marine vessel replacement and related equipment.

(b) FISCAL YEAR 2001.—Of the amounts made available for fiscal year 2001 under subparagraphs (A) and (B) of section 301(b)(3) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(3) (A) and (B)) as amended by section 101(c) of this Act, $75,524,000 shall be available until expended for the following:

(1) $36,500,000 for Customs Service aircraft restoration and replacement.

(2) $15,000,000 for increased air interdiction and investigative support activities.

(3) $24,024,000 for marine vessel replacement and related equipment.

SEC. 105. COMPLIANCE WITH PERFORMANCE PLAN REQUIREMENTS.

As part of the annual performance plan for each of the fiscal years 2000 and 2001 covering each program activity set forth in the budget of the United States Customs Service, as required under section 1115 of title 31, United States Code, the Commissioner of Customs shall establish performance goals and performance indicators, and comply with all other requirements contained in paragraphs (1) through (6) of subsection (a) of such section with respect to each of the activities to be carried out pursuant to sections 102 and 103 of this Act.

SEC. 106. COMMISSIONER OF CUSTOMS SALARY.

(a) IN GENERAL.—

(1) Section 5315 of title 5, United States Code, is amended by striking the following item:

''Commissioner of Customs, Department of Treasury.''.

(2) Section 5314 of title 5, United States Code, is amended by inserting the following item:

''Commissioner of Customs, Department of Treasury.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to fiscal year 1999 and thereafter.

SEC. 107. PASSENGER PRECLEARANCE SERVICES.

(a) CONTINUATION OF PRECLEARANCE SERVICES.—Notwithstanding section 13031(f) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)) or any other provision of law, the Customs Service shall, without regard to whether a passenger processing fee is collected from a person departing for the United States from Canada and without regard to whether funds are appropriated pursuant to subsection (b), provide the same level of enhanced preclearance customs services for passengers arriving in the United States aboard commercial aircraft originating in Canada as the Customs Service provided for such passengers during fiscal year 1997.

(b) AUTHORIZATION OF APPROPRIATIONS FOR PRECLEARANCE SERVICES.—Notwithstanding section 13031(f) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)) or any other provision of law, there are authorized to be appropriated, from the date of enactment of this Act through September 30, 2001, such sums as may be necessary for the Customs Service to ensure that it will continue to provide the same, and where necessary increased, levels of enhanced preclearance customs services as the Customs Service provided during fiscal year 1997, in connection with the arrival in the United States of passengers aboard commercial aircraft whose flights originated in Canada.

TITLE II—CUSTOMS PERFORMANCE REPORT

SEC. 201. CUSTOMS PERFORMANCE REPORT.

(a) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the Commissioner of Customs shall prepare and submit to the appropriate committees the report described in subsection (b).

(b) REPORT DESCRIBED.—The report described in this subsection shall include the following:

(1) IDENTIFICATION OF OBJECTIVES; ESTABLISHMENT OF PRIORITIES.—

(A) An outline of the means the Customs Service intends to use to identify enforcement priorities and trade facilitation objectives.

(B) The reasons for selecting the objectives contained in the most recent plan submitted by the Customs Service pursuant to section 1115 of title 31, United States Code.

(C) The performance standards against which the appropriate committees can assess the efforts of the Customs Service in reaching the goals outlined in the plan described in subparagraph (B).

(2) IMPLEMENTATION OF THE CUSTOMS MODERNIZATION ACT.—

(A) A review of the Customs Service's implementation of title VI of the North American Free Trade Agreement Implementation Act, commonly known as the ''Customs Modernization Act'', and the reasons why elements of that Act, if any, have not been implemented.

(B) A review of the effectiveness of the informed compliance strategy in obtaining higher levels of compliance, particularly compliance by those industries that have been the focus of the most intense efforts by the Customs Service to ensure compliance with the Customs Modernization Act.

(C) A summary of the results of the reviews of the initial industry-wide compliance assessments conducted by the Customs Service as part of the agency's informed compliance initiative.

(3) IMPROVEMENT OF COMMERCIAL OPERATIONS.—

(A) Identification of standards to be used in assessing the performance and efficiency of the commercial operations of the Customs Service, including entry and inspection procedures, classification, valuation, country-of-origin determinations, and duty drawback determinations.

(B) Proposals for—

(i) improving the performance of the commercial operations of the Customs Service, particularly the functions described in subparagraph (A), and

(ii) eliminating lengthy delays in obtaining rulings and other forms of guidance on United States customs law, regulations, procedures, or policies.

(C) Alternative strategies for ensuring that United States importers, exporters, customs brokers, and other members of the trade community have the information necessary to comply with the customs laws of the United States and to conduct their business operations accordingly.

(4) REVIEW OF ENFORCEMENT RESPONSIBILITIES.—

(A) A review of the enforcement responsibilities of the Customs Service.

(B) An assessment of the degree to which the current functions of the Customs Service overlap with the functions of other agencies and an identification of ways in which the Customs Service can avoid duplication of effort.

(C) A description of the methods used to ensure against misuse of personal search authority with respect to persons entering the United States at authorized ports of entry.

(5) STRATEGY FOR COMPREHENSIVE DRUG INTERDICTION.—

(A) A comprehensive strategy for the Customs Service's role in United States drug interdiction efforts.

(B) Identification of the respective roles of cooperating agencies, such as the Drug Enforcement Administration, the Federal Bureau of Investigation, the Coast Guard, and the intelligence community, including—

(i) identification of the functions that can best be performed by the Customs Service and the functions that can best be performed by agencies other than the Customs Service; and

(ii) a description of how the Customs Service plans to allocate the additional drug interdiction resources authorized by the Drug Free Borders Act of 1999.

(6) ENHANCEMENT OF COOPERATION WITH THE TRADE COMMUNITY.—

(A) Identification of ways to expand cooperation with United States importers and customs brokers, United States and foreign carriers, and other members of the international trade and transportation communities to improve the detection of contraband before it leaves a foreign port destined for the United States.

(B) Identification of ways to enhance the flow of information between the Customs Service and industry in order to—

(i) achieve greater awareness of potential compliance threats;

(ii) improve the design and efficiency of the commercial operations of the Customs Service;

(iii) foster account-based management;

(iv) eliminate unnecessary and burdensome regulations; and

(v) establish standards for industry compliance with customs laws.

(7) ALLOCATION OF RESOURCES.—

(A) An outline of the basis for the current allocation of inspection and investigative personnel by the Customs Service.

(B) Identification of the steps to be taken to ensure that the Customs Service can detect any misallocation of the resources described in subparagraph (A) among various ports and a description of what means the Customs Service has for reallocating resources within the agency to meet particular enforcement demands or commercial operations needs.

(8) AUTOMATION AND INFORMATION TECHNOLOGY.—

(A) Identification of the automation needs of the Customs Service and an explanation of the current state of the Automated Commercial System and the status of implementing a replacement for that system.

(B) A comprehensive strategy for reaching the technology goals of the Customs Service, including—

(i) an explanation of the proposed architecture of any replacement for the Automated Commercial System and how the architecture of the proposed replacement system best serves the core functions of the Customs Service;

(ii) identification of public and private sector automation projects that are comparable and that can be used as a benchmark against which to judge the progress of the Customs Service in meeting its technology goals;

(iii) an estimate of the total cost for each automation project currently underway at the Customs Service and a timetable for the implementation of each project; and

(iv) a summary of the options for financing each automation project.

(9) PERSONNEL POLICIES.—

(A) An overview of current personnel practices, including a description of—

(i) performance standards;

(ii) the criteria for promotion and termination;

(iii) the process for investigating complaints of bias and sexual harassment;

(iv) the criteria used for conducting internal investigations;

(v) the protection, if any, that is provided for whistleblowers; and

(vi) the methods used to discover and eliminate corruption within the Customs Service.

(B) Identification of workforce needs for the future and training needed to ensure Customs Service personnel stay abreast of developments in international business operations and international trade that affect the operations of the Customs Service, including identification of any situations in which current personnel policies or practices may impede achievement of the goals of the Customs Service with respect to both enforcement and commercial operations.

(c) APPROPRIATE COMMITTEES.—For purposes of this section, the term ''appropriate committees'' means the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

By Mr. MOYNIHAN (for himself, Mr. ROBB and Mr. KERREY):

S. 659. A bill to amend the Internal Revenue Code of 1986 to require pension plans to provide adequate notice to individuals whose future benefit accruals are being significantly reduced, and for other purposes; to the Committee on Finance.

THE PENSION RIGHT TO KNOW ACT OF 1999

Mr. MOYNIHAN. Mr. President, I rise today to introduce legislation to provide greater disclosure to employees about the impact on their retirement benefits of pension plan conversions.

Recent media accounts have reported that many large companies in America are converting their traditional defined benefit pension plans to something called ''cash balance plans.'' A cash balance plan is a hybrid arrangement combining certain features of ''defined contribution'' and ''defined benefit'' plans. Like defined contribution plans, they provide each employee with an account in which his or her benefits accrue. But cash balance plans are actually defined benefit plans, and therefore provide a benefit for life which is insured by the Pension Benefit Guaranty Corporation.

Cash balance plans, however, differ from other defined benefit plans in the calculation of benefits. Whereas the value of an employee's retirement benefit in a traditional defined benefit plan grows slowly in the early years and more rapidly as one approaches retirement, cash balance plans decrease this later-year growth and increase the early-year growth. Consequently, younger employees tend to do better under cash balance plans than under traditional plans, while older employees typically do worse. In some cases, upon conversion to a cash balance account an older worker's account balance may remain static for years—typically referred to as the ''wear away'' period.

It appears that very few workers who have experienced the conversion of their company retirement plan to a cash balance arrangement understand the differences between the old and new plans. Those who do often complain that the new plans treat older workers unfairly. One 49-year-old engineer profiled by the Wall Street Journal—a rare employee who knows how to calculate pension benefits—determined that his pension value dropped by $56,000 the day his company converted to a cash balance plan.

Even more disturbing are complaints from some employees that their employers obscured the adverse effects of plan amendments. When an employer changes the pension plan, the employees have a right to know the consequences. There should be no surprises when it is time to retire. Unfortunately, current law requires little in the way of disclosure when a company changes its pension plan. Section 204(h) of the Employee Retirement Income Security Act (ERISA) requires employers to inform employees of a change to a pension plan resulting in a reduction in future benefit accruals. But that is all. It does not require specifics. The 204(h) disclosure can be, and often is, satisfied with a brief statement buried deep in a company communication to employees. It is imperative that we increase these disclosure requirements regarding reductions in pension benefits.

The bill I am introducing today would require employers with 1,000 or more employees to provide a ''statement of benefit change'' when adopting plan amendments which significantly reduce benefits. The statement of benefit change would provide a comparison, under the old and new versions of the plan, of the following benefit measures; the employee's accrued benefit and present value of accrued benefit at the time of conversion; and the projected accrued benefit and projected present value of accrued benefit three years, five years, and ten years after conversion and at normal retirement age.

These benefit measures are standard concepts which will be well understood by pension administrators, actuaries and others who work with pensions. They will give the employee a clear picture of the difference between the old and new plans immediately, periodically over a ten-year period, and at retirement. The purpose of the three, five and ten-year comparisons is to disclose any ''wear away'' period, in which an employee would work without gaining any new benefits. Using these comparisons, employees can get a clear picture of the relative merits of the two plans.

In preparing this bill, my staff has consulted a number of actuaries and pension attorneys. I believe it is a good approach to resolving the problems I have discussed, and I am happy to work with others to incorporate suggestions to further improve the bill.

Of course, many call this measure as intrusive or unnecessary. Some employer groups have criticized the idea of requiring individualized benefits calculations for every employee, saying that this requires reviewing each employee's salary history. But that seems a strange complaint given that we are talking about cash balance plans, which already require highly individualized calculations. If an employer can provide personalized account balances under a cash balance arrangement, then the employer can provide such information for the old plan.

Moreover, recently completed regulations appear already to contemplate individualized comparisons. Regulation 1.411(d)–6, just finalized by the Internal Revenue Service, requires that in order

to determine if a reduction in future benefit accrual is ''significant,'' employers must compare the annual benefit at retirement age under the amended plan with the same benefit under the plan prior to amendment. Therefore, the concept of benefit comparisons is not a new one.

And indeed, some companies are proving by their actions that benefit comparisons are not unduly burdensome. Kodak, the prominent employer headquartered in Rochester, New York, recently announced that it will convert to a cash balance plan, and that it will give its 35,000 participants in the company-sponsored pension plan the choice between the old plan and the new. To help employees make an informed decision, Kodak will provide every plan participant with an individualized comparison of his or her benefits under the old and new versions of the plan. The company is also providing computer software that will allow employees to make the comparisons themselves. That is the difference between corporate behavior that is responsible and corporate behavior that is unscrupulous. As usual, Kodak sets a fine example.

I believe that such disclosure not only is in the best interest of employees, but also of the employer. Several class action lawsuits have been filed in the last three years challenging conversions to cash balance plans. These suits will likely cost hundreds of thousands, if not millions, of dollars in attorneys' fees. But with proper disclosure, they might not have occurred.

In closing, let me be clear about one thing. I take no position on the underlying merit of cash balance plans. Ours is a voluntary pension system, and companies must do what is right for them and their employees. But I feel strongly that companies must fully and comprehensibly inform their employees regarding whatever pension benefits the company offers. Companies have no right to misrepresent the projected benefit employees will receive under a cash balance plan or any other pension arrangement.

It is time to let the sun shine on pension plan conversions. I urge the Senate to support this important legislation.

I ask unanimous consent that the text of my bill be printed in the RECORD.

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

S. 659

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 ''Pension Right to Know Act''.

SEC. 2. NOTICE REQUIREMENTS FOR LARGE PENSION PLANS SIGNIFICANTLY REDUCING FUTURE PENSION BENEFIT ACCRUALS.

(a) PLAN REQUIREMENT.—Section 401(a) of the Internal Revenue Code of 1986 (relating to qualified pension, profit-sharing, and stock bonus plans) is amended by inserting after paragraph (34) the following new paragraph:

''(35) NOTICE REQUIREMENTS FOR LARGE DEFINED BENEFIT PLANS SIGNIFICANTLY REDUCING FUTURE BENEFIT ACCRUALS.—

''(A) IN GENERAL.—If a large defined benefit plan adopts an amendment which has the effect of significantly reducing the rate of future benefit accrual of 1 or more participants, a trust which is part of such plan shall not constitute a qualified trust under this section unless, after adoption of such amendment and not less than 15 days before its effective date, the plan administrator provides—

''(i) a written statement of benefit change described in subparagraph (B) to each applicable individual, and

''(ii) a written notice setting forth the plan amendment and its effective date to each employee organization representing participants in the plan.

Any such notice may be provided to a person designated, in writing, by the person to which it would otherwise be provided. The plan administrator shall not be treated as failing to meet the requirements of this subparagraph merely because the statement or notice is provided before the adoption of the plan amendment if no material modification of the amendment occurs before the amendment is adopted.

''(B) STATEMENT OF BENEFIT CHANGE.—A statement of benefit change described in this subparagraph shall—

''(i) be written in a manner calculated to be understood by the average plan participant, and

''(ii) include the information described in subparagraph (C).

''(C) INFORMATION CONTAINED IN STATEMENT OF BENEFIT CHANGE.—The information described in this subparagraph includes the following:

''(i) Notice setting forth the plan amendment and its effective date.

''(ii) A comparison of the following amounts under the plan with respect to an applicable individual, determined both with and without regard to the plan amendment:

''(I) The accrued benefit and the present value of the accrued benefit as of the effective date.

''(II) The projected accrued benefit and the projected present value of the accrued benefit as of the date which is 3 years, 5 years, and 10 years from the effective date and as of the normal retirement age.

''(iii) A table of all annuity factors used to calculate benefits under the plan, presented in the form provided in section 72 and the regulations thereunder.

Benefits described in clause (ii) shall be stated separately and shall be calculated by using the applicable mortality table and the applicable interest rate under section 417(e)(3)(A).

''(D) LARGE DEFINED BENEFIT PLAN; APPLICABLE INDIVIDUAL.—For purposes of this paragraph—

''(i) LARGE DEFINED BENEFIT PLAN.—The term 'large defined benefit plan' means any defined benefit plan which had 1,000 or more participants who had accrued a benefit under the plan (whether or not vested) as of the last day of the plan year preceding the plan year in which the plan amendment becomes effective.

''(ii) APPLICABLE INDIVIDUAL.—The term 'applicable individual' means—

''(I) each participant in the plan, and

''(II) each beneficiary who is an alternate payee (within the meaning of section 414(p)(8)) under an applicable qualified domestic relations order (within the meaning of section 414(p)(1)(A)).

''(E) ACCRUED BENEFIT; PROJECTED RETIREMENT BENEFIT.—For purposes of this paragraph—

''(i) PRESENT VALUE OF ACCRUED BENEFIT.—The present value of an accrued benefit of any applicable individual shall be calculated as if the accrued benefit were in the form of a single life annuity commencing at the participant's normal retirement age (and by taking into account any early retirement subsidy).

''(ii) PROJECTED ACCRUED BENEFIT.—

''(I) IN GENERAL.—The projected accrued benefit of any applicable individual shall be calculated as if the benefit were payable in the form of a single life annuity commencing at the participant's normal retirement age (and by taking into account any early retirement subsidy).

''(II) COMPENSATION AND OTHER ASSUMPTIONS.—Such benefit shall be calculated by assuming that compensation and all other benefit factors would increase for each plan year beginning after the effective date of the plan amendment at a rate equal to the median average of the CPI increase percentage (as defined in section 215(i) of the Social Security Act) for the 5 calendar years immediately preceding the calendar year before the calendar year in which such effective date occurs.

''(III) BENEFIT FACTORS.—For purposes of subclause (II), the term 'benefit factors' means social security benefits and all other relevant factors under section 411(b)(1)(A) used to compute benefits under the plan which had increased from the 2d plan year preceding the plan year in which the effective date of the plan amendment occurs to the 1st such preceding plan year.

''(iii) NORMAL RETIREMENT AGE.—The term 'normal retirement age' means the later of—

''(I) the date determined under section 411(a)(8), or

''(II) the date a plan participant attains age 62.''

(b) AMENDMENTS TO ERISA.—

(1) BENEFIT STATEMENT REQUIREMENT.—Section 204(h) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1054(h)) is amended by adding at the end the following new paragraphs:

''(3)(A) If paragraph (1) applies to the adoption of a plan amendment by a large defined benefit plan, the plan administrator shall, after adoption of such amendment and not less than 15 days before its effective date, provide with the notice under paragraph (1) a written statement of benefit change described in subparagraph (B) to each applicable individual.

''(B) A statement of benefit change described in this subparagraph shall—

''(i) be written in a manner calculated to be understood by the average plan participant, and

''(ii) include the information described in subparagraph (C).

''(C) The information described in this subparagraph includes the following:

''(i) A comparison of the following amounts under the plan with respect to an applicable individual, determined both with and without regard to the plan amendment:

''(I) The accrued benefit and the present value of the accrued benefit as of the effective date.

''(II) The projected accrued benefit and the projected present value of the accrued benefit as of the date which is 3 years, 5 years, and 10 years from the effective date and as of the normal retirement age.

''(ii) A table of all annuity factors used to calculate benefits under the plan, presented in the form provided in section 72 of the Internal Revenue Code of 1986 and the regulations thereunder.

Benefits described in clause (i) shall be stated separately and shall be calculated by using the applicable mortality table and the applicable interest rate under section 417(e)(3)(A) of such Code.

''(D) For purposes of this paragraph—

''(i) The term 'large defined benefit plan' means any defined benefit plan which had 1,000 or more participants who had accrued a benefit under the plan (whether or not vested) as of the last day of the plan year preceding the plan year in which the plan amendment becomes effective.

''(ii) The term 'applicable individual' means an individual described in subparagraph (A) or (B) of paragraph (1).

''(E) For purposes of this paragraph—

''(i) The present value of an accrued benefit of any applicable individual shall be calculated as if the accrued benefit were in the form of a single life annuity commencing at the participant's normal retirement age (and by taking into account any early retirement subsidy).

''(ii)(I) The projected accrued benefit of any applicable individual shall be calculated as if the benefit were payable in the form of a single life annuity commencing at the participant's normal retirement age (and by taking into account any early retirement subsidy).

''(II) Such benefit shall be calculated by assuming that compensation and all other benefit factors would increase for each plan year beginning after the effective date of the plan amendment at a rate equal to the median average of the CPI increase percentage (as defined in section 215(i) of the Social Security Act) for the 5 calendar years immediately preceding the calendar year before the calendar year in which such effective date occurs.

''(III) For purposes of subclause (II), the term 'benefit factors' means social security benefits and all other relevant factors under section 204(b)(1)(A) used to compute benefits under the plan which had increased from the 2d plan year preceding the plan year in which the effective date of the plan amendment occurs to the 1st such preceding plan year.

''(iii) The term 'normal retirement age' means the later of—

''(I) the date determined under section 3(24), or

''(II) the date a plan participant attains age 62.

''(4) A plan administrator shall not be treated as failing to meet the requirements of this subsection merely because the notice or statement is provided before the adoption of the plan amendment if no material modification of the amendment occurs before the amendment is adopted.''

(2) CONFORMING AMENDMENT.—Section 204(h)(1) of such Act (29 U.S.C. 1054(h)(1)) is amended by inserting ''(including any written statement of benefit change if required by paragraph (3))'' after ''written notice''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to plan amendments taking effect in plan years beginning on or after the earlier of—

(A) the later of—

(i) January 1, 1999, or

(ii) the date on which the last of the collective bargaining agreements pursuant to which the plan is maintained terminates (determined without regard to any extension thereof after the date of the enactment of this Act), or

(B) January 1, 2001.

(2) EXCEPTION WHERE NOTICE GIVEN.—The amendments made by this section shall not apply to any plan amendment for which written notice was given to participants or their representatives before March 17, 1999, without regard to whether the amendment was adopted before such date.

(3) SPECIAL RULE.—The period for providing any notice required by, or any notice the contents of which are changed by, the amendments made by this Act shall not end before the date which is 6 months after the date of the enactment of this Act.

By Mr. BINGAMAN (for himself, Mr. CRAIG, Ms. MIKULSKI, Mr. THURMOND, Mr. DASCHLE, Ms. COLLINS, Mr. JOHNSON, Ms. SNOWE, Mr. DORGAN, Mr. MACK, Mr. HOLLINGS, Mr. REED, Mr. CONRAD, and Mr. CRAPO):

S. 660. A bill to amend title XVIII of the Social Security Act to provide for coverage under part B of the medicare program of medical nutrition therapy services furnished by registered dietitians and nutrition professionals; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, I rise today to introduce the Medical Nutrition Therapy Act of 1999 on behalf of myself, my friend and colleague from Idaho, Senator CRAIG, and a bipartisan group of additional Senators.

This bipartisan measure provides for coverage under Part B of the Medicare program for medical nutrition therapy services by a registered dietician. Medical nutrition therapy is generally defined as the assessment of patient nutritional status followed by therapy, ranging from diet modification to administration of specialized nutrition therapies such as intravenous or tube feedings. It has proven to be a medically necessary and cost-effective way of treating and controlling many disease entities such as diabetes, renal disease, cardiovascular disease and severe burns.

Currently there is no consistent Part B coverage policy for medical nutrition and this legislation will bring needed uniformity to the delivery of this important care, as well as save taxpayer money. Coverage for medical nutrition therapy can save money by reducing hospital admissions, shortening hospital stays, decreasing the number of complications, and reducing the need for physician follow-up visits.

The treatment of patients with diabetes and cardiovascular disease accounts for a full 60% of Medicare expenditures. I want to use diabetes as an example for the need for this legislation. There are very few families who are not touched by diabetes. The burden of diabetes is disproportionately high among ethnic minorities in the United States. According to the American Journal of Epidemiology, mortality due to diabetes is higher nationwide among blacks than whites. It is higher among American Indians than among any other ethnic group.

In my state of New Mexico, Native Americans are experiencing an epidemic of Type II diabetes. Medical nutrition therapy is integral to their diabetes care. In fact, information from the Indian Health Service shows that medical nutrition therapy provided by professional dieticians results in significant improvements in medical outcomes in people with Type II diabetes. For example, complications of diabetes such as end stage renal failure that leads to dialysis can be prevented with adequate intervention. Currently, the number of dialysis patients in the Navajo population is doubling every five years. Mr, President, we must place our dollars in the effective, preventive treatment of medical nutrition therapy rather than face the grim reality of having to continue to build new dialysis units.

Ensuring the solvency of the Medicare Part A Trust Fund is one of our most difficult challenges and one that calls for creative, effective solutions. Coverage for medical nutrition therapy is one important way to help address that challenge. It is exactly the type of cost effective care we should encourage. It will satisfy two of our most important priorities in Medicare: providing program savings while maintaining a high level of quality care.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 660

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the ''Medicare Medical Nutrition Therapy Act of 1999''.

(b) FINDINGS.—Congress finds as follows:

(1) Medical nutrition therapy is a medically necessary and cost-effective way of treating and controlling many diseases and medical conditions affecting the elderly, including HIV, AIDS, cancer, kidney disease, diabetes, heart disease, pressure ulcers, severe burns, and surgical wounds.

(2) Medical nutrition therapy saves health care costs by speeding recovery and reducing the incidence of complications, resulting in fewer hospitalizations, shorter hospital stays, and reduced drug, surgery, and treatment needs.

(3) A study conducted by The Lewin Group shows that, after the third year of coverage, savings would be greater than costs for coverage of medical nutrition therapy for all medicare beneficiaries, with savings projected to grow steadily in following years.

(4) The Agency for Health Care Policy and Research has indicated in its practice guidelines that nutrition is key to both the prevention and the treatment of pressure ulcers (also called bed sores) which annually cost the health care system an estimated $1,300,000,000 for treatment.

(5) Almost 17,000,000 patients each year are treated for illnesses or injuries that stem from or place them at risk of malnutrition.

(6) Because medical nutrition therapy is not covered under part B of the medicare program and because more and more health care is delivered on an outpatient basis, many patients are denied access to the effective, low-tech treatment they need, resulting in an increased incidence of complications and a need for higher cost treatments.

SEC. 2. MEDICARE COVERAGE OF MEDICAL NUTRITION THERAPY SERVICES.

(a) COVERAGE.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

(1) by striking ''and'' at the end of subparagraph (S);

(2) by striking the period at the end of subparagraph (T) and inserting ''; and''; and

(3) by adding at the end the following new subparagraph:

''(U) medical nutrition therapy services (as defined in subsection (uu)(1));''.

(b) SERVICES DESCRIBED.—Section 1861 of such Act (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

''Medical Nutrition Therapy Services; Registered Dietitian or Nutrition Professional

''(uu)(1) The term 'medical nutrition therapy services' means nutritional diagnostic, therapy, and counseling services for the purpose of disease management which are furnished by a registered dietitian or nutrition professional (as defined in paragraph (2)) pursuant to a referral by a physician (as defined in subsection (r)(1)).

''(2) Subject to paragraph (3), the term 'registered dietitian or nutrition professional' means an individual who—

''(A) holds a baccalaureate or higher degree granted by a regionally accredited college or university in the United States (or an equivalent foreign degree) with completion of the academic requirements of a program in nutrition or dietetics, as accredited by an appropriate national accreditation organization recognized by the Secretary for this purpose;

''(B) has completed at least 900 hours of supervised dietetics practice under the supervision of a registered dietitian or nutrition professional; and

''(C)(i) is licensed or certified as a dietitian or nutrition professional by the State in which the services are performed, or

''(ii) in the case of an individual in a State that does not provide for such licensure or certification, meets such other criteria as the Secretary establishes.

''(3) Subparagraphs (A) and (B) of paragraph (2) shall not apply in the case of an individual who, as of the date of enactment of this subsection, is licensed or certified as a dietitian or nutrition professional by the State in which medical nutrition therapy services are performed.''.

(c) PAYMENT.—Section 1833(a)(1) of such Act (42 U.S.C. 1395l(a)(1)) is amended—

(1) by striking ''and'' before ''(S)'', and

(2) by inserting before the semicolon at the end the following: '', and (T) with respect to medical nutrition therapy services (as defined in section 1861(uu)), the amount paid shall be 80 percent of the lesser of the actual charge for the services or the amount determined under the fee schedule established under section 1848(b) for the same services if furnished by a physician''.

(d) EFFECTIVE DATE.—The amendments made by this section apply to services furnished on or after January 1, 2000.

Mr. CRAIG. Mr. President, today Senator BINGAMAN and I join to introduce a very important piece of legislation, the Medical Nutrition Therapy Act. I'm pleased to have the support of a number of Senators in introducing this legislation: Senators MACK, THURMOND, MIKULSKI, SNOWE, DASCHLE, COLLINS, JOHNSON, CRAPO, DORGAN, HOLLINGS, REED, and CONRAD. This bill simply expands Medicare Part B coverage to give seniors access to medical nutrition therapy services by registered dietitians and other nutrition professionals. Currently there is no direct coverage for services provided by registered dietitians, and, because they are uniquely qualified to provide medical nutrition therapy, beneficiaries are essentially denied access to this cost effective and efficacious form of care.

Nutrition is one of the most basic elements of life. From the moment we are born to the moment we die, nutrition plays a critical role. It influences how we grow, how our brain develops, how we feel, and how our bodies prevent and fight disease. For decades we have known that nutrition can influence the most serious life threatening diseases, such as cancer, heart disease, stroke, diabetes, and high blood cholesterol.

Experts have proven that proper nutrition may not only help prevent disease, but also is central to controlling and treating disease.

Medical nutrition therapy plays a major role in treating some of the most threatening illnesses. It significantly improves the quality of life of seriously ill patients. It also saves health care costs by speeding recovery and reducing the incidence of complications, resulting in fewer hospitalizations, shorter hospital stays, and reduced drug, surgery, and treatment needs.

Because medical nutrition therapy is not currently covered by Medicare Part B and because more and more health care is delivered on an outpatient basis, many patients are denied access to the effective, low-tech treatment they need, resulting in an increased incidence of complications and a need for higher cost treatments.

Medical nutritional therapy is an integral part of cost effective health care.

Our legislation would remedy this defect in Medicare Part B, improving health care and lowering costs. I invite all our colleagues to join Senator BINGAMAN and myself in working for this important reform.

By Mr. ABRAHAM (for himself, Mr. HATCH, Mr. LOTT, Mr. SESSIONS, Mr. NICKLES, Mr. COVERDELL, Mr. CRAIG, Mr. KYL, Mr. ENZI, Mr. MCCAIN, Mr. HUTCHINSON, Mr. SANTORUM, Mr. BROWNBACK, Mr. INHOFE, Mr. SMITH of New Hampshire, Mr. HELMS, Mr. GRASSLEY, and Mr. DEWINE):

S. 661. A bill to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions; to the Committee on the Judiciary.

CHILD CUSTODY PROTECTION ACT

Mr. ABRAHAM. Mr. President, today, I along with 19 of my colleagues will be re-introducing the Child Custody Protection Act. This legislation will make it a federal offense to transport a minor across state lines to obtain an abortion if this action circumvents a state parental involvement law.

Last year, this bill received a majority of votes but fell short of the sixty votes needed for cloture. It is my hope that this year the Senate will listen to the 74 percent of Americans who favor parental consent prior to a minor girl receiving an abortion. This Baseline & Associates poll, conducted last summer, reveals that the American public favors parental consent laws and when asked specifically about this legislation, the American public is even more supportive. Eighty five percent of those who participated in the poll believed that minor girls should not be taken across state lines to obtain an abortion without their parents' knowledge.

These poll numbers reinforce what common sense already tells us: parents need to be involved with the major medical and emotional decisions of their children. When they are not involved, the health and emotional well being of their child is in jeopardy.

Last year, we heard from Joyce Farley, whose 13 year old daughter was raped, taken across state lines for a secret abortion by the rapist's mother, and dropped off 30 miles from home suffering from complications from an incomplete abortion. Mrs. Farley told of the trauma to her daughter from this stranger's actions. Luckily, Mrs. Farley found out about the abortion and could obtain appropriate medical care for her daughter. If this abortion had remained secret, Mrs. Farley's daughter's life could have been in danger.

Whatever one's position on abortion, every American should recognize the crucial role of parents in their minor child's decision whether or not to undergo this procedure. Parental notification and consent laws exist for a reason. While most such laws provide for possible judicial bypass, they by nature intend to protect the rights and integrity of the family. More than 20 states have recognized the need to protect both the minor and the integrity of the family and have parental involvement laws in effect. My legislation adds no new provisions to state-enacted parental involvement laws. It does not impose parental involvement requirements on states that have not passed such laws. The Child Custody Protection Act simply prevents the undermining of parental involvement laws in states that have them.

I hope my colleagues will support me in working to quickly pass this common sense legislation. I ask unanimous consent that the text of the bill and section by section analysis be printed in the RECORD.

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

S. 661

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 ''Child Custody Protection Act''.

SEC. 2. TRANSPORTATION OF MINORS IN CIRCUMVENTION OF CERTAIN LAWS RELATING TO ABORTION.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 117 the following:

"CHAPTER 117A—TRANSPORTATION OF MINORS IN CIRCUMVENTION OF CERTAIN LAWS RELATING TO ABORTION

''Sec.
''2431. Transportation of minors in circumvention of certain laws relating to abortion.

"§ 2431. Transportation of minors in circumvention of certain laws relating to abortion

''(a) OFFENSE.—

''(1) GENERALLY.—Except as provided in subsection (b), whoever knowingly transports an individual who has not attained the age of 18 years across a State line, with the intent that such individual obtain an abortion, and thereby in fact abridges the right of a parent under a law requiring parental involvement in a minor's abortion decision, in force in the State where the individual resides, shall be fined under this title or imprisoned not more than one year, or both.

''(2) DEFINITION.—For the purposes of this subsection, an abridgement of the right of a parent occurs if an abortion is performed on the individual, in a State other than the State where the individual resides, without the parental consent or notification, or the judicial authorization, that would have been required by that law had the abortion been performed in the State where the individual resides.

''(b) EXCEPTIONS.—(1) The prohibition of subsection (a) does not apply if the abortion was necessary to save the life of the minor because her life was endangered by a physical disorder, physical injury, or physical illness, including a life endangering physical condition caused by or arising from the pregnancy itself.

''(2) An individual transported in violation of this section, and any parent of that individual, may not be prosecuted or sued for a violation of this section, a conspiracy to violate this section, or an offense under section 2 or 3 based on a violation of this section.

''(c) AFFIRMATIVE DEFENSE.—It is an affirmative defense to a prosecution for an offense, or to a civil action, based on a violation of this section that the defendant reasonably believed, based on information the defendant obtained directly from a parent of the individual or other compelling facts, that before the individual obtained the abortion, the parental consent or notification, or judicial authorization took place that would have been required by the law requiring parental involvement in a minor's abortion decision, had the abortion been performed in the State where the individual resides.

''(d) CIVIL ACTION.—Any parent who suffers legal harm from a violation of subsection (a) may obtain appropriate relief in a civil action.

''(e) DEFINITIONS.—For the purposes of this section—

''(1) a law requiring parental involvement in a minor's abortion decision is a law—

''(A) requiring, before an abortion is performed on a minor, either—

''(i) the notification to, or consent of, a parent of that minor; or

''(ii) proceedings in a State court; and

''(B) that does not provide as an alternative to the requirements described in subparagraph (A) notification to or consent of any person or entity who is not described in that subparagraph;

''(2) the term 'parent' means—

''(A) a parent or guardian;

''(B) a legal custodian; or

''(C) a person standing in loco parentis who has care and control of the minor, and with whom the minor regularly resides;

who is designated by the law requiring parental involvement in the minor's abortion decision as a person to whom notification, or from whom consent, is required;

''(3) the term 'minor' means an individual who is not older than the maximum age requiring parental notification or consent, or proceedings in a State court, under the law requiring parental involvement in a minor's abortion decision; and

''(4) the term 'State' includes the District of Columbia and any commonwealth, possession, or other territory of the United States.''.

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 117 the following new item:'Q02

''117A. Transportation of minors in circumvention of certain laws relating to abortion ..... 2431.''.

.....

THE CHILD CUSTODY PROTECTION ACT—SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section states that the short title of this bill is the ''Child Custody Protection Act.''

Section 2. Transportation of minors to avoid certain laws relating to abortion

Section 2(a) amends title 18 of the United States Code by inserting after chapter 117 a proposed new chapter 117A titled ''Transportation of minors to avoid certain laws relating to abortion,'' within which would be included a new section 2431 on this subject.

Subsection (a) of proposed section 2431 outlaws the knowing transportation across a State line of a person under 18 years of age with the intent that she obtain an abortion, in abridgement of a parent's right of involvement according to State law. This subsection requires only knowledge by the defendant that he or she was transporting the person across State lines with the intent that she obtain an abortion. It does not require that the transporter know the requirement of the home State law, know that they have not been complied with, or indeed know anything about the existence of the State law. By the same token, it does not require that the defendant know that his or her actions violate Federal law, or indeed know anything about the Federal law. A reasonable belief that parental notice or consent, or judicial authorization, has been given, is an affirmative defense whose terms are set out in subsection (c).

Subsection (a), paragraph (1), imposes a maximum of 1 year imprisonment or a fine, or both.

Subsection (a), paragraph (2), specifies the criteria for a violation of the parental right under this statute as follows: an abortion must be performed on a minor in a State other than the minor's residence and without the parental consent or notification, or the judicial authorization, that would have been required had the abortion been performed in the minor's State or residence.

Subsection (b), paragraph (1) specifies that subsection (a) does not apply if the abortion is necessary to save the life of the minor. This subsection is not intended to preempt any other exceptions that a State parental involvement law that meets the definitions set out in subsection (e)(1) and (e)(2) may recognize.

Subsection (b), paragraph (2), clarifies that neither the minor being transported nor her parents may be prosecuted or sued for a violation of this bill.

Subsection (c) provides an affirmative defense to prosecution or civil action based on violation of the act where the defendant reasonably believed, based on information obtained directly from the girl's parent or other compelling factors, that the requirements of the girl's State of residence regarding parental involvement or judicial authorization in abortions had been satisfied. A minor's own assertion to a defendant that her parents knew or had consented would not, by itself, constitute sufficient basis to make out this affirmative defense.

Subsection (d) establishes a civil cause of action for a parent who suffers legal harm from a violation of subsection (a).

Subsection (e) sets forth definitions of certain terms in this bill.

Subsection (e)(1)(A) defines ''a law requiring parental involvement in a minor's abortion decision'' to be a law requiring either ''the notification to, or consent of, a parent of that minor or proceedings in a State court.''

Subsection (e)(1)(B) stipulates that a law conforming to the definition in (e)(1)(A) cannot provide notification to or consent of any person or entity other than a ''parent'' as defined in the subsequent section.

Subsection (e)(2) defines ''parent'' to mean a parent or guardian, or a legal custodian, or a person standing in loco parentis (if that person has ''care and control'' of the minor and is a person with whom the minor ''regularly resides'') and who is designated by the applicable State parental involvement law as the person to whom notification, or from whom consent, is required. In this context, a person in loco parentis has the meaning it has at common law: a person who effectively functions as a child's guardian, but without the legal formalities of guardianship having been met. It would not include individuals who are not truly exercising the responsibilities of parents, such as an adult boyfriend with whom the minor may be living.

Subsection (e)(3) defines ''minor'' to mean a person not older than the maximum age requiring parental notification or consent, or proceedings in a State court, under the parental involvement law of the State, where the minor resides.

Subsection (E)(4) defines ''State'' to include the District of Columbia ''and any commonwealth, possession, or other territory of the United States.''

Section 2(b) is a clerical amendment to insert the new chapter in the table of chapters for part I of title 18.

By Mr. CHAFEE (for himself, Ms. MIKULSKI, Mr. MOYNIHAN, Ms. SNOWE, Mr. SMITH of Oregon, Mr. HARKIN, Mr. COCHRAN, Mr. DURBIN, Mrs. MURRAY, Mr. LEAHY, Mr. ROCKEFELLER, Mr. LIEBERMAN, Mr. LAUTENBERG, Mrs. FEINSTEIN, Mr. BINGAMAN, Mr. SARBANES, Mr. HOLLINGS, Mr. WELLSTONE, Mr. CLELAND, Mr. KENNEDY, Mr. JOHNSON, Mr. ROBB, Mrs. BOXER, Mr. REID, and Mr. KERREY):

S. 662. A bill to amend title XIX of the Social Security Act to provide medical assistance for certain women screened and found to have breast or cervical cancer under a federally funded screening program; to the Committee on Finance.

THE BREAST AND CERVICAL CANCER TREATMENT ACT OF 1999

• Mr. CHAFEE. Mr. President, I am pleased today to introduce legislation that will provide life-saving treatment to women who have been diagnosed with breast and cervical cancer. I am very proud of this legislation and want to thank everyone who worked so hard to put this bill together.

I want to take just a few minutes to explain what this legislation does. In

1990 Congress created a program, run by the Centers for Disease Control, to provide breast and cervical cancer screening for low-income, uninsured women. This program is run in all 50 states and is tremendously successful. The CDC screens more than 500,000 women ever year, detecting more than 3,000 cases of breast cancer and 350 cases of cervical cancer.

The problem comes about when these women try to get treatment for the cancer. They are uninsured, and are not eligible for either Medicaid or Medicare. They must rely on volunteers and charitable providers to find treatment services. Treatment for many is delayed, and many do not receive the crucial follow-up care. Some never receive treatment and others are left with huge medical bills they cannot pay.

The legislation we are introducing today provides a simple solution to this problem. It gives states the option to provide those women, many of whom are mothers of young children, who are diagnosed with breast or cervical cancer under the CDC's screening program to obtain treatment through the medicaid program. The coverage would continue until the treatment and follow-up visits are completed.

This is a modest, low-cost solution to a life or death problem. It costs less than $60 million per year to provide this critical treatment. I hope very much that we will be able to pass this bill this year.

I ask that the legislation be printed in the RECORD.

The bill follows:

S. 662

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. OPTIONAL MEDICAID COVERAGE OF CERTAIN BREAST OR CERVICAL CANCER PATIENTS.

(a) COVERAGE AS OPTIONAL CATEGORICALLY NEEDY GROUP.—

(1) IN GENERAL.—Section 1902(a)(10)(A)(ii) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(ii)) is amended—

(A) in subclause (XIII), by striking ''or'' at the end;

(B) in subclause (XIV), by adding ''or'' at the end; and

(C) by adding at the end the following:

''(XV) who are described in subsection (aa) (relating to certain breast or cervical cancer patients);''.

(2) GROUP DESCRIBED.—Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended by adding at the end the following:

''(aa) Individuals described in this paragraph are individuals who—

''(1) are not described in subsection (a)(10)(A)(i);

''(2) have not attained age 65;

''(3) have been screened for breast and cervical cancer under the Centers for Disease Control and Prevention breast and cervical cancer early detection program established under title XV of the Public Health Service Act (42 U.S.C. 300k et seq.) in accordance with the requirements of section 1504 of that Act (42 U.S.C. 300n) and need treatment for breast or cervical cancer; and

''(4) are not otherwise covered under creditable coverage, as defined in section 2701(c) of the Public Health Service Act (45 U.S.C. 300gg(c)).''.

(3) LIMITATION ON BENEFITS.—Section 1902(a)(10) of the Social Security Act (42 U.S.C. 1396a(a)(10)) is amended in the matter following subparagraph (F)—

(A) by striking ''and (XIII)'' and inserting ''(XIII)''; and

(B) by inserting '', and (XIV) the medical assistance made available to an individual described in subsection (aa) who is eligible for medical assistance only because of subparagraph (A)(ii)(XV) shall be limited to medical assistance provided during the period in which such an individual requires treatment for breast or cervical cancer'' before the semicolon.

(4) CONFORMING AMENDMENTS.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) is amended in the matter preceding paragraph (1)—

(A) in clause (x), by striking ''or'' at the end;

(B) in clause (xi), by adding ''or'' at the end; and

(C) by inserting after clause (xi) the following:

''(xii) individuals described in section 1902(aa),''.

(b) PRESUMPTIVE ELIGIBILITY.—

(1) IN GENERAL.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended by inserting after section 1920A the following:

''PRESUMPTIVE ELIGIBILITY FOR CERTAIN BREAST OR CERVICAL CANCER PATIENTS

''SEC. 1920B. (a) STATE OPTION.—A State plan approved under section 1902 may provide for making medical assistance available to an individual described in section 1902(aa) (relating to certain breast or cervical cancer patients) during a presumptive eligibility period.

''(b) DEFINITIONS.—For purposes of this section:

''(1) PRESUMPTIVE ELIGIBILITY PERIOD.—The term 'presumptive eligibility period' means, with respect to an individual described in subsection (a), the period that—

''(A) begins with the date on which a qualified entity determines, on the basis of preliminary information, that the individual is described in section 1902(aa); and

''(B) ends with (and includes) the earlier of—

''(i) the day on which a determination is made with respect to the eligibility of such individual for services under the State plan; or

''(ii) in the case of such an individual who does not file an application by the last day of the month following the month during which the entity makes the determination referred to in subparagraph (A), such last day.

''(2) QUALIFIED ENTITY.—

''(A) IN GENERAL.—Subject to subparagraph (B), the term 'qualified entity' means any entity that—

''(i) is eligible for payments under a State plan approved under this title; and

''(ii) is determined by the State agency to be capable of making determinations of the type described in paragraph (1)(A).

''(B) REGULATIONS.—The Secretary may issue regulations further limiting those entities that may become qualified entities in order to prevent fraud and abuse and for other reasons.

''(C) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed as preventing a State from limiting the classes of entities that may become qualified entities, consistent with any limitations imposed under subparagraph (B).

''(c) ADMINISTRATION.—

''(1) IN GENERAL.—The State agency shall provide qualified entities with—

''(A) such forms as are necessary for an application to be made by an individual described in subsection (a) for medical assistance under the State plan; and

''(B) information on how to assist such individuals in completing and filing such forms.

''(2) NOTIFICATION REQUIREMENTS.—A qualified entity that determines under subsection (b)(1)(A) that an individual described in subsection (a) is presumptively eligible for medical assistance under a State plan shall—

''(A) notify the State agency of the determination within 5 working days after the date on which determination is made; and

''(B) inform such individual at the time the determination is made that an application for medical assistance under the State plan is required to be made by not later than the last day of the month following the month during which the determination is made.

''(3) APPLICATION FOR MEDICAL ASSISTANCE.—In the case of an individual described in subsection (a) who is determined by a qualified entity to be presumptively eligible for medical assistance under a State plan, the individual shall apply for medical assistance under such plan by not later than the last day of the month following the month during which the determination is made.

''(d) PAYMENT.—Notwithstanding any other provision of this title, medical assistance that—

''(1) is furnished to an individual described in subsection (a)—

''(A) during a presumptive eligibility period;

''(B) by a entity that is eligible for payments under the State plan; and

''(2) is included in the care and services covered by the State plan;

shall be treated as medical assistance provided by such plan for purposes of section 1903(a)(5)(B).''.

(2) CONFORMING AMENDMENTS.—

(A) Section 1902(a)(47) of the Social Security Act (42 U.S.C. 1396a(a)(47)) is amended by inserting before the semicolon at the end the following: ''and provide for making medical assistance available to individuals described in subsection (a) of section 1920B during a presumptive eligibility period in accordance with such section''.

(B) Section 1903(u)(1)(D)(v) of such Act (42 U.S.C. 1396b(u)(1)(D)(v)) is amended—

(i) by striking ''or for'' and inserting '', for''; and

(ii) by inserting before the period the following: '', or for medical assistance provided to an individual described in subsection (a) of section 1920B during a presumptive eligibility period under such section''.

(c) ENHANCED MATCH.—Section 1903(a)(5) of the Social Security Act (42 U.S.C. 1396b(a)(5)) is amended—

(1) by striking ''an'' and inserting ''(A) an'';

(2) by adding ''plus'' after the semicolon; and

(3) by adding at the end the following:

''(B) an amount equal to 75 percent of the sums expended during such quarter which are attributable to the offering, arranging, and furnishing (directly or on a contract basis) of medical assistance to an individual described in section 1902(aa); plus''.

(d) EFFECTIVE DATE.—The amendments made by this section apply to medical assistance furnished on or after October 1, 1999, without regard to whether final regulations to carry out such amendments have been promulgated by such date.●

● Ms. MIKULSKI. Mr. President, I rise to join my distinguished colleagues Senators CHAFEE, MOYNIHAN, SNOWE, and to introduce legislation providing breast and cervical cancer treatment services to women who were diagnosed

with these cancers through the National Breast and Cervical Cancer Early Detection Program (NBCCEDP). This bill would give states the option to provide Medicaid coverage for the duration of breast and cervical cancer treatment to eligible women who were screened through the CDC program and found to have these cancers. This is a bill whose time has come.

In 1990, I was proud to be the chief Senate sponsor of the Breast and Cervical Cancer Mortality Prevention Act which created the National Breast and Cervical Cancer Early Detection Program (NBCCEDP) at the CDC. The time was right for us to create that program. Since its inception, the CDC screening program has provided more than 721,000 mammograms and 851,000 Pap tests to more than 1.2 million women. Among the women screened, over 3,600 cases of breast cancer and over 400 cases of invasive cervical cancer have been diagnosed since the beginning of the program. In Maryland alone, the state had provided more than 54,000 mammograms and 35,000 Pap tests, and diagnosed over 450 women with breast cancer and 15 women with invasive cervical cancer.

Now as we prepare to enter the 21st century, it is time for us to finish what we started and provide treatment services for breast and cervical cancer for women who are screened through this program. We made the down payment in 1990 and we've been making payments ever since, but it's time for the final payment. It is time to do the right thing. We screen the women in this program for breast and cervical cancer. But we don't provide the federal follow-up to ensure that these women are treated.

The CDC screening program does not pay for breast and cervical cancer treatment services, but it does require participating states to provide treatment services. A study of the program done for the Centers for Disease Control and Prevention found that while treatment was eventually found for almost all of the women screened, some women did not get treated at all, some refused treatment, and some experienced delays. While states and localities have been diligent and creative in finding treatment services for these women, the reality is that the system is overloaded. The CDC study found that when it came to treatment services, state efforts to obtain these services were short-term, labor-intensive solutions that diverted resources away from screening activities.

Of those women diagnosed with cancer in the United States, nearly 3,000 women have no way to afford treatment—they have no health care insurance coverage or are underinsured. One woman in Massachusetts reported that she cashed in her life insurance policy to cover the costs of her treatment. These women depend on the time of staff and volunteers who help them find free or more affordable treatment; they depend on the generosity of doctors, nurses, hospitals and clinics who provide them with free or reduced-cost treatment. In the end, thousands of women who run local screening programs are spending countless hours finding treatment services for women diagnosed with breast cancer. I salute the efforts of these individuals who spend their time and resources to help these women.

But we must not force these women to rely on the goodwill of others. These treatment efforts will become even more difficult as more women are screened by the NBCCEDP, which currently services only 12–15% of all women who are eligible nationally. The lack of coverage for diagnostic and treatment services has also had a very negative impact on the program's ability to recruit providers, further restricting the number of women screened. The CDC study also shows there are already additional stresses on the program as increasing numbers of physicians do not have the autonomy in today's ever increasing managed care system to offer free or reduced-fee services. While CDC has expanded its case management services to help more women get treatment, even CDC admits that ''more formalized and sustained mechanisms need to be instituted to ensure that all women screened have ready access to appropriate treatment and follow-up.'' It is an outrage that women with cancer must go begging for treatment, especially if the federal government has held out the promise of early detection. We should follow through on our responsibility to treat the cancer that these women were diagnosed with through the CDC program.

That's why I've introduced this important legislation with my colleagues. This bill gives states the option to provide Medicaid coverage for the duration of breast and cervical cancer treatment to eligible women who were screened through the CDC program and found to have these cancers. This is not a mandate for states; it is the federal government saying to the states ''we will help you provide treatment services to these women, if you decide to do so.'' By choosing this option, states would in effect, extend the federal-state partnership that exists for the screening services in the CDC program to treatment services.

I'm proud that my own state of Maryland realized the importance of providing treatment services to women who were screened through the CDC screening program. Maryland appropriated over $6 million in state funds to establish a Breast and Cervical Cancer Diagnostic and Treatment Program for uninsured, low income women. The breast cancer mortality rate in Maryland has started to decline, in part because of programs like the CDC program. But not all states have the resources to do what Maryland has done. That's why this bill is needed. It provides a long-term solution. Screening alone does not prevent cancer deaths; but treatment can. It's a cruel and heart-breaking irony for the federal government to promise to screen low-income women for breast and cervical cancer, but not to establish a program to treat those women who have been diagnosed with cancer through a federal program.

It is clear that the short-term, ad-hoc strategies of providing treatment have broken down: for the women who are screened; for the local programs that fund the screening program; and for the states that face increasing burdens. Because there is not coverage for treatment, state programs are having a hard time recruiting providers, volunteers are spending a disproportionate amount of time finding treatment for women, and fewer women are receiving treatment. We can't grow the program to serve the other 78% of eligible women if we can't promise treatment to those we already screen.

This bill is the best long-term solution. It is strongly supported by the National Breast Cancer Coalition representing over 400 organizations and 100,000's of women across the nation; the American Cancer Society, the National Association of Public Hospitals and Health Systems, the National Partnership for Women and Families, YWCA, National Women's Health Network, Oncology Nursing Society, Association of Women's Health, Obstetric, and Neonatal Nurses, the Rhode Island Breast Cancer Coalition, Y–ME, and Arm in Arm. I urge my colleagues to cosponsor and support this critical piece of legislation and make good on the promise of early detection.●

● Mr. MOYNIHAN. Mr. President, today, I join with my colleagues Senators CHAFEE, MIKULSKI, and SNOWE in introducing legislation to ensure that women with breast or cervical cancer will receive coverage for their treatment. The Federal Centers for Disease Control and Prevention (CDC) has a successful nationwide program—National Breast and Cervical Cancer Early Detection program—that provides funding for states to screen low-income uninsured women for breast and cervical cancer. However, the CDC program is not designed and does not have funding to treat these women after they are diagnosed.

The women eligible for cancer screening under the CDC program are low-income individuals, yet are not poor enough to qualify for Medicaid coverage. They do not have health insurance coverage for these screenings and for subsequent cancer treatment.

From July of 1991 to September of 1997, the CDC program provided mammography screening to 722,000 women and diagnosed 3,600 cases of breast cancer. During this same period, the program also provided over 852,000 pap smears and found more than 400 cases of invasive cervical cancer.

The CDC screening program has had to divert a significant amount of its resources from screenings in order to find treatment for the women found to have

breast and cervical cancer. The lack of subsequent funding for treatment has, therefore, jeopardized the programs' primary function: to screen low-income uninsured women for breast and cervical cancer. Currently, the program screens only about 12 to 15 percent of all eligible women.

A study conducted at Battelle Centers for Public Health Research and Evaluation and the University of Michigan School of Public Health on treatment funding for women screened by the CDC program found that, although funding for treatment services were found for most of these women, treatment was not always available when needed. In addition, during the search for treatment funding, the CDC program lost contact with several women. The study also found that the sources of treatment funding are uncertain, tenuous and fragmented. The burden of funding treatment often fell upon providers themselves. Seeking charity care from public hospitals adds to hospitals' uncompensated care costs. It is no surprise that the National Association of Public Hospitals supports our bill to provide coverage for these women.

The legislation would allow states to provide treatment coverage for low-income women who are screened and diagnosed through the CDC program and who are uninsured. States will have the option to provide this coverage through its Medicaid program. States choosing this option would receive an enhanced match for the treatment coverage, similar to the federal match provided to the state for the CDC screening program. With this legislation, the Federal Government will follow through on its intent to assist low-income women with breast and cervical cancer.

Mr. President, the Senate has approved this proposal in the past. A similar provision was included in the Senate version of the Balanced Budget bill. I urge the Senate to again support this important legislation.●

By Mr. SPECTER:

S. 663. A bill to impose certain limitations on the receipt of out-of-State municipal solid waste, to authorize State and local controls over the flow of municipal solid waste, and for other purposes; to the Committee on Environment and Public Works.

THE SOLID WASTE INTERSTATE TRANSPORTATION AND LOCAL AUTHORITY ACT OF 1999

● Mr. SPECTER. Mr. President, I have sought recognition to introduce a bill that would allow states to pass laws limiting the import of waste from other states. Addressing the interstate shipment of solid waste is a top environmental priority for millions of Americans, millions of Pennsylvanians and for me. As you are aware, Congress came very close to enacting legislation to address this issue in 1994, and the Senate passed interstate waste and flow control legislation in May, 1995 by an overwhelming 94–6 margin, only to see it die in the House of Representatives. I am confident that with the strong leadership of my colleagues Chairman CHAFEE and Senator SMITH, we can get quick action on a strong waste bill and pressure the House to conclude this effort once and for all.

As you are aware, the Supreme Court has put us in the position of having to intervene in the issue of trash shipments. In recent years, the Court has struck down State laws restricting the importation of solid waste from other jurisdictions under the Interstate Commerce Clause of the U.S. Constitution. The only solution is for Congress to enact legislation conferring such authority on the States, which would then be Constitutional.

It is time that the largest trash exporting States bite the bullet and take substantial steps towards self-sufficiency for waste disposal. The legislation passed by the Senate in the 103rd and 104th Congresses would have provided much-needed relief to Pennsylvania, which is by far the largest importer of out-of-State waste in the nation. According to the Pennsylvania Department of Environmental Protection, 3.9 million tons of out-of-State municipal solid waste entered Pennsylvania in 1993, rising to 4.3 million tons in 1994, 5.2 million in 1995, and a record 6.3 million tons from out-of-State in 1996 and 1997, which are the most recent statistics available. Most of this trash came from New York and New Jersey, with New York responsible for 2.7 million tons and New Jersey responsible for 2.4 million tons in 1997, representing 82 percent of the municipal solid waste imported into Pennsylvania.

This is not a problem limited to one small corner of my State. Millions of tons of trash generated in other States find their final resting place in more than 50 landfills throughout Pennsylvania.

Now, more than ever, we need legislation which will go a long way toward resolving the landfill problems facing Pennsylvania, Indiana, and similar waste importing States. I am particularly concerned by the developments in New York, where Governor Pataki and Mayor Giuliani have announced the closure of the City's one remaining landfill, Fresh Kills, in 2001. I am advised that 13,200 tons per day of New York City trash are sent there and that Pennsylvania is a likely destination once Fresh Kills begins its shut-down.

On several occasions, I have met with country officials, environmental groups, and other Pennsylvanians to discuss the solid waste issue specifically, and it often comes up in the public open house town meetings I conduct in all of Pennsylvania's 67 counties. I came away from those meetings impressed by the deep concerns expressed by the residents of communities which host a landfill rapidly filing up with the refuse of millions of New Yorkers and New Jerseyans whose States have failed to adequately manage the waste they generate.

Recognizing the recurrent problem of landfill capacity in Pennsylvania, since 1989 I have pushed to resolve the interstate waste crisis. I have introduced legislation with my late colleague, Senator JOHN HEINZ, and then with former Senator Dan Coats along with cosponsors from both sides of the aisle which would have authorized States to restrict the disposal of out-of-State municipal waste in any landfill or incinerator within its jurisdiction. I was pleased when many of the concepts in our legislation were incorporated in the Environment and Public Works Committee's reported bills in the 103rd and 104th Congresses, and I supported these measures during floor consideration.

During the 103rd Congress, we encountered a new issue with respect to municipal solid waste—the issue of waste flow control authority. On May 16, 1994, the Supreme Court held (6–3) in Carbone versus Clarkstown that a flow control ordinance, which requires all solid waste to be processed at a designated waste management facility, violates the Commerce Clause of the United States Constitution. In striking down the Clarkstown ordinance, the Court stated that the ordinance discriminated against interstate commerce by allowing only the favored operator to process waste that is within the town's limits. As a result of the Court's decision, flow control ordinances in Pennsylvania and other States are considered unconstitutional.

I have met with county commissioners who have made clear that this issue is vitally important to the local governments in Pennsylvania and my office has, over the past years received numerous phone calls and letters from individual Pennsylvania counties and municipal solid waste authorities that support waste flow control legislation. Since 1988, flow control has been the primary tool used by Pennsylvania counties to enforce solid waste plans and meet waste reduction and recycling goals or mandates. Many Pennsylvania jurisdictions have spent a considerable amount of public funds on disposal facilities, including upgraded sanitary landfills, state-of-the-art resource recovery facilities, and co-composting facilities. In the absence of flow control authority, I am advised that many of these worthwhile projects could be jeopardized and that there has been a fiscal impact on some communities where there are debt service obligations.

In order to fix these problems, my legislation would provide a presumptive ban on all out-of-state municipal solid waste, including construction and demolition debris, unless a landfill obtains the agreement of the local government to allow for the importation of waste. It would provide a freeze authority to allow a State to place a limit on the amount of out-of-state waste received annually at each facility. It would also provide a ratchet authority to allow a State to gradually

reduce the amount of out-of-state municipal waste that may be received at facilities. These provisions will provide a concrete incentive for the largest states to get a handle on their solid waste management immediately. To address the problem of flow control my bill would provide authority to allow local governments to designate where privately collected waste must be disposed. This would be a narrow fix for only those localities that constructed facilities before the 1994 Supreme Court ruling and who relied on their ability to regulate the flow of garbage to pay for their municipal bonds.

This is an issue that affects numerous states, and I urge my colleagues to support this very important legislation.●

By Mr. CHAFEE (for himself, Mr. GRAHAM, Mr. JEFFORDS, and Mr. BREAUX):

S. 664. A bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax to individuals who rehabilitate historic homes or who are the first purchasers of rehabilitated historic homes for use as a principal residence; to the Committee on Finance.

THE HISTORIC HOMEOWNERSHIP ASSISTANCE ACT

● Mr. CHAFEE. Mr. President, all across America, in the small towns and great cities of this country, our heritage as a nation—the physical evidence of our past—is at risk. In virtually every corner of this land, homes in which grandparents and parents grew up, communities and neighborhoods that nurtured vibrant families, schools that were good places to learn and churches and synagogues that were filled on days of prayer, have suffered the ravages of abandonment and decay.

In the decade from 1980 to 1990, Chicago lost 41,000 housing units through abandonment, Philadelphia 10,000 and St. Louis 7,000. The story in our older small communities has been the same, and the trend continues. It is important to understand that it is not just buildings that we are losing. It is the sense of our past, the vitality of our communities and the shared values of those precious places.

We need not stand hopelessly by as passive witnesses to the loss of these irreplaceable historic resources. We can act, and to that end I am introducing today the Historic Homeownership Assistance Act along with my distinguished colleagues, Senator GRAHAM of Florida, Senator JEFFORDS, and Senator BREAUX.

This legislation is patterned after the existing Historic Rehabilitation Investment Tax Credit. That legislation has been enormously successful in stimulating private investment in the rehabilitation of buildings of historic importance all across the country. Through its use we have been able to save and re-use a rich and diverse array of historic buildings: landmarks such as Union Station right here in Washington, DC, the Fox River Mills, a mixed use project that was once a derelict paper mill in Appleton, WI, and the Rosa True School, an eight-unit low and moderate income rental project in an historic school building in Portland, ME.

In my own state of Rhode Island, federal tax incentives stimulated the rehabilitation and commercial reuse of more than three hundred historic properties. The properties saved include the Hotel Manisses on Block Island, the former Valley Falls Mills complex in Central Falls, and the Honan Block in Woonsocket.

The legislation that I am introducing builds on the familiar structure of the existing tax credit, but with a different focus and a more modest scope and cost. It is designed to empower the one major constituency that has been barred from using the existing credit—homeowners. Only those persons who rehabilitate or purchase a newly rehabilitated home and occupy it as their principal residence would be entitled to this new credit. There would be no passive losses, no tax shelters and no syndications under this bill.

Like the existing investment credit, the bill would provide a credit to homeowners equal to 20 percent of the qualified rehabilitation expenditures made on an eligible building which is used as a principal residence by the owner. Eligible buildings are those individually listed on the National Register of Historic Places or on a nationally certified state or local historic register, or are contributing buildings in national, state or local historic districts. As is the case with the existing credit, the rehabilitation work would have to be performed in compliance with the Secretary of the Interior's Standards for Rehabilitation, although the bill clarifies that such Standards should be interpreted in a manner that takes into consideration economic and technical feasibility.

The bill also allows lower income homebuyers, who may not have sufficient federal income tax liability to use a tax credit, to convert the credit to mortgage assistance. The legislation would permit such persons to receive an Historic Rehabilitation Mortgage Credit Certificate which they can use with their work bank to obtain a lower interest rate on their mortgage or to lower the amount of their downpayment.

The credit would be available for condominiums and coops, as well as single-family buildings. If a building is rehabilitated by a developer for resale, the credit would pass through to the homeowner.

One goal of the bill is to provide incentives for middle- and upper-income families to return to older towns and cities. Therefore, the bill does not limit the tax benefits on the basis of income. However, it does impose a cap of $40,000 on the amount of credit which may be taken for a principal residence.

The Historic Homeownership Assistance Act will make ownership of a rehabilitated older home more affordable for homebuyers of modest incomes. It will encourage more affluent families to claim a stake in older towns and neighborhoods. It affords fiscally stressed cities and towns a way to put abandoned buildings back on the tax rolls, while strengthening their income and sales tax bases. It offers developers, realtors, and homebuilders a new realm of economic opportunity in revitalizing decaying buildings.

In addition to preserving our heritage, extending this credit will provide an important supplemental benefit—it will boost the economy. Every dollar of federal investment in historic rehabilitation leverages many more from the private sector. Rhode Island, for example, has used the credit to leverage $252 million in private investment. This investment has created more than 10,000 jobs and $187 million in wages.

An increasing concern to many mayors, country executives and governors is the issue of urban sprawl. Wherein new housing is constructed on nearby farmland, older housing stock is abandoned. This legislation encourages the rehabilitation of that housing stock and will help curb urban sprawl.

The American dream of owning one's own home is a powerful force. This bill can help it come true for those who are prepared to make a personal commitment to join in the rescue of our priceless heritage. By their actions they can help to revitalize decaying resources of historic importance, create jobs and stimulate economic development, and restore to our older towns and cities a lost sense of purpose and community. I ask that a summary of this bill be printed in the RECORD.

The summary follows:

THE HISTORIC HOMEOWNERSHIP ASSISTANCE ACT—SUMMARY

Purpose. To provide homeownership incentives and opportunities through the rehabilitation of older buildings in historic districts.

Rate of Credit. 20% credit for expenditures to rehabilitate or purchase a newly-rehabilitated eligible home and occupy it as a principal residence.

Eligible Buildings. Eligible buildings would be buildings individually listed on the National Register of Historic Places or a nationally certified state or local register, and contributing buildings in national, state or local historic districts.

Maximum Credit: Minimum Expenditures. The amount of the credit would be limited to $40,000 for each principal residence. The amount of qualified rehabilitation expenditures would be required to exceed the greater of $5,000 or the adjusted tax basis of the building (excluding the land). At least five percent of the qualified rehabilitation expenditures would have to be spent on the exterior of the building.

Carry-Forward: Recapture. Any unused amounts of credit would be carried forward until fully exhausted. In the event the taxpayer failed to maintain his or her principal residence in the building for five years, the credit would be subject to ratable recapture.

Historic Rehabilitation Mortgage Credit Certificates. Lower income taxpayers, who may not have sufficient Federal Income Tax liability to make effective use of a homeownership credit would be able to convert the credit into a mortgage credit certificate

which can be used to obtain an interest rate reduction on his or her home mortgage loan. For homes purchased in distressed areas, the credit certificate could be used to lower an individual's downpayment.

In many distressed neighborhoods, the cost of rehabilitating a home and bringing it to market significantly exceeds the value at which the property is appraised by the mortgage lender. This gap imposes a significant burden on a potential homeowner because the required downpayment exceeds his or her means. The legislation permits the mortgage credit certificate to be used to reduce the buyer's down payment, rather than to reduce the interest rate, in order to close this gap. This provision is limited to historic districts which qualify as targeted under the existing Mortgage Revenue Bond program or are located in enterprise or empowerment zones.●

● Mr. GRAHAM. Mr. President, today I join my good friend and colleague Senator CHAFEE in support of the Historic Homeownership Assistance Act. This bill will spur growth and preservation of historic neighborhoods across the country by providing a limited tax credit for qualified rehabilitation expenditures to historic homes.

In virtually every corner of this land, homes in which our grandparents and parents grew up, communities and neighborhoods that nurtured vibrant families, schools that were good places to learn and churches and synagogues that were filled on days of prayer, have suffered the ravages of decay. Every year we lose thousands of historic housing units that are either demolished or abandoned. We are losing both physical structures and the historic past that these physical structures represent.

The Historic Homeownership Assistance Act will stimulate rehabilitation of historic homes while contributing to the revitalization of urban communities. The Federal tax credit provided in the legislation is modeled after the existing Federal commercial historic rehabilitation tax credit. Since 1981, this commercial tax credit has facilitated the preservation of many historic structures such as Union Station in Washington, DC. In my home state of Florida, the existing Historic Rehabilitation Investment tax credit has resulted in over 300 rehabilitation projects since 1974. These projects range from the restoration of art deco hotels in Miami Beach, to the preservation of Ybor City in Tampa and the Springfield Historic District in Jacksonville.

The tax credit, however, has never applied to personal residences. This legislation that Senator CHAFEE and I are cosponsoring is designed to empower the one major constituency that has been barred from using the existing credit—homeowners. It is time we provide this incentive to homeowners to restore and preserve homes in America's historic communities.

Like the existing investment credit, this bill would provide a credit to homeowners equal to 20 percent of a qualified rehabilitation expenditures made on an eligible building that is used as a principle residence by the owner. The amount of the credit would be limited to $40,000 for each principal residence. Eligible buildings would be those that are listed individually on the National Register of Historic Places, or a nationally certified state or local register, and contributing buildings in national, state or local historic districts. Recognizing that the states can best administer laws affecting unique communities, the act gives power to the Secretary of the Interior to work with states to implement a number of provisions.

The bill also targets Americans at all economic levels. It provides lower income Americans with the option to elect a Mortgage Credit Certificate in lieu of the tax credit. This certificate allows Americans who cannot take advantage of the tax credit to reduce the interest rate on the mortgage that secures the purchase and rehabilitation of a historic home.

The credit would also be available for condominiums and co-ops, as well as single-family buildings. If a building were to be rehabilitated by a developer for sale to a homeowner, the credit would pass through to the homeowner. Since one purpose of the bill is to provide incentives for middle-income and more affluent families to return to older towns and cities, the bill does not discriminate among taxpayers on the basis of income.

Mr. President, the time has come for Congress to get serious about urban renewal. For too long, we have sat on the sidelines watching idly as our citizens slowly abandoned entire homes and neighborhoods in urban settings, leaving cities like Miami in Florida and others around the nation in financial jeopardy. This legislation affords fiscally stressed cities and towns a way to put abandoned buildings back on the tax rolls, while strengthening their income and sales tax base. It will encourage more affluent families to claim a stake in older towns and neighborhoods. It offers developers, realtors, and homebuilders a new realm of economic opportunity in revitalizing decaying buildings.

The Historic Homeownership Assistance Act does not reinvent the wheel. In addition to the existing commercial historic rehabilitation credit, the proposed bill incorporates features from several tax incentives for the preservation of historic homes. Colorado, Maryland, New Mexico, Rhode Island, Wisconsin, and Utah have pioneered their own successful versions of the historic preservation tax incentive for homeownership.

At the federal level, this legislation would promote historic home preservation nationwide, allowing future generations of Americans to visit and reside in homes that tell the unique history of our communities. The Historic Homeownership Assistance Act will offer enormous potential for saving historic homes and bringing entire neighborhoods back to life. I urge all my colleagues to support this important piece of legislation.●

By Mr. COVERDELL (for himself, Mr. HAGEL, Mrs. HUTCHISON, Mr. KYL, Mr. INHOFE, and Mr. GRASSLEY):

S. 665. A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to prohibit the consideration of retroactive tax increases; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, that if one Committee reports, the other Committee has 30 days to report or be discharged.

COVERDELL RETROACTIVE TAX BAN PACKAGE

Mr. COVERDELL. Mr. President, today I rise to offer a tax reform package to provide greater tax fairness and to protect citizens from retroactive taxation. This package includes three initiatives: a constitutional amendment called the retroactive tax ban amendment, a bill to establish a new budget point of order against retroactive taxation, and a proposed Senate Rule change.

The first, the retroactive tax ban amendment, is a constitutional amendment to prevent the Federal Government from imposing any tax increase retroactively. The amendment states simply ''No Federal tax shall be imposed for the period before the date of enactment.'' We have heard directly from the taxpayers, and looking backward for extra taxes is unacceptable. It is not a fair way to deal with taxpayers.

In addition, I am introducing a bill that would create a point of order under the Budget Act against retroactive tax rate increases. Because amending the Constitution can be a very long prospect—just look at the decades-long effort on behalf of a balanced budget amendment—I believe this legislation is necessary to provide needed protection for American families from the destabilizing effects of retroactive taxation.

Finally, I am proposing a Senate Rule change making it out of order for the Senate to consider retroactive tax rate increases.

Both proposals, the point of order under the Budget Act and the Senate Rule change, are modeled after the existing House Rules preventing that body from considering retroactive taxation. In other words, by virtue of the fact that the House cannot consider legislation so too has the Senate been de facto unable to consider retroactive tax rate increases. Now is the time for the Senate to come forward and incorporate this fact in its proceedings.

It was clear to Thomas Jefferson that the only way to preserve freedom was to protect its citizens from oppressive taxation. Even the Russian Constitution does not allow you to tax retroactively. Retroactive taxation is wrong, and it is morally incorrect.

Families and businesses and communities must know what the rules of the road are and that those rules will not change. They have to be able to plan their lives, plan their families, and

plan their tax burdens in advance. They cannot come to the end of a year and have a Congress of the United States and a President come forward and say, ''All your planning was for naught, and we don't care.''

I encourage my Colleagues to join me in protecting taxpayers from retroactive tax rate increases.

By Mr. LUGAR (for himself, Mr. GRAMM, Mr. MCCAIN, Mr. DEWINE, Mr. HAGEL, Mr. GRAMS, Mr. JEFFORDS, MS. LANDRIEU, and Mr. LIEBERMAN):

S. 666. A bill to authorize a new trade and investment policy for sub-Saharan Africa; to the Committee on Finance.

AFRICAN GROWTH AND OPPORTUNITY ACT (AGOA)

• Mr. LUGAR. Mr. President, I rise to introduce the African Growth and Opportunity Act (AGOA). I'm pleased to be joined by Senators MCCAIN, GRAMM, HAGEL, DEWINE and GRAMS as original cosponsors. Our bill is designed to provide a broad U.S. policy framework towards the nearly fifty countries in sub-Sahara Africa. Specifically, the bill seeks to develop active partnerships with African countries through a set of trade and investment initiatives and incentives in exchange for a commitment from those countries to make the transition to market economies.

For decades U.S. policy towards Africa was based largely on a series of bilateral aid relationships. Our involvement in Africa was influenced by strategic considerations inherent in the cold war. Our assistance programs targeted humanitarian crises and natural disasters and they helped nurture a variety of health, nutritional, educational and agricultural programs. As important as these programs have been, they have not promoted much economic development, fostered much self-reliance or promoted political stability for the vast majority of the people of sub-Sahara Africa. Nor have they particularly benefitted the American economy. For these reasons, it is long past due that the United States reevaluate this policy. That is the purpose of our bill.

Last year, a similar bill was introduced and passed in the House of Representatives but did not reach the floor of the Senate. The bill has been introduced last month in the House and the House committees have been active. Already, the bill is scheduled to be reported by both the Ways and Means and International Relations Committees very soon. I understand that it is scheduled for a floor vote in the House in the next several weeks.

The Administration supports this legislation because it mirrors its own initiatives on Africa. Indeed, President Clinton cited the initiative and the bill in his last two State of the Union addresses before the Congress. Virtually all African Ambassadors have endorsed this bill and are committed to working to pass and enact it this year. Our bill enjoys support within the American business community and among many non-governmental organizations involved in Africa.

Mr. President, the AGOA is intended to promote greater economic self-reliance in Africa through enhanced private sector activity and trade incentives for those countries meeting eligibility requirements and wishing to participate. The bill authorizes the President to grant duty-free treatment to certain products currently excluded from the GSP program, subject to the sensitivity analysis of the International Trade Commission. It extends the GSP program for Africa for 10 years, a provision which is important for long-term business planning.

The bill also would increase access to U.S. markets for African textiles and other products. It would remove U.S. quotas on African textile imports which now amount to less than one percent of our worldwide textile imports. The bill includes unusually strong transshipment language that is the toughest ever proposed. The U.S. International Trade Commission estimated last year that reducing tariffs on textiles from Africa would have a negligible effect on our economy but would give a high boost to Africa's fledgling manufacturing base. The jobs and foreign exchange earnings that would be gained in Africa under this initiative will enable Africans to purchase more products from the United States.

In my judgement, the AGOA is a modest bill which, if adopted, could have immodest results in Africa. It takes a long-term view and provides a policy road map for achieving economic growth and opportunity. It will take some time for the initiatives embedded in this legislation to have a measurable impact on economic growth in Africa. Nonetheless, we need to look ahead over the next decades and to assist wherever possible in the development of those areas that have not been successfully or fully integrated into the world economy. Much of Africa falls into this category. My bill is intended to help facilitate that transition. Strategic planning now will help create a better, more productive and prosperous future.

Mr. President, our bill includes a number of other attractive provisions. It includes two new private sector financed funds—an equity fund and an infrastructure fund both of which would be backed by the Overseas Private Investment Corporation (OPIC). If successful, these funds will lead to improvements in such areas as African roads, telecommunications and power plants each of which can accelerate economic activity in Africa. It includes provisions for enhanced visibility for Africa in our international deliberations on trade and finance and increased technical assistance for economic management. It establishes a Forum to facilitate high level discussions on trade and investment policies between the U.S. and Africa.

Most importantly, our bill signals the start of a new era in U.S.-African relations based less on bilateral aid ties and more business relationships, less on paternalism and more on partnerships, and one that builds upon the long term prospects of African societies rather than on short-term, reactive policies.

Many African societies have been undergoing impressive political and economic transformations. Africa's economic potential is substantial. There are more than 600 million people in sub-Sahara Africa, but Africa's share of foreign annual direct investment commands less than two percent of global direct investment flows. Much of that capital comes from Europe which has an established market and investment presence in Africa. Nonetheless, several African countries enjoy sustained economic growth at or above 6%, despite the strains in the global economy that began in Southeast Asia and spread to other parts of the world. Indeed, U.S. Trade with sub-Sahara Africa exceeds our trade with all the states of the former Soviet Union combined and the potential for expansion will grow as these economies expand and mature.

The enhanced trade and private investment benefits in the bill will be available to all African societies but especially to those countries which undertake sustained economic reform, maintain acceptable human rights practices and make progress towards good governance. These standards are similar to those applied in other parts of the world. Indeed, without these standards the private sector would be unlikely to invest in Africa.

The United States can play a significant role in helping promote Africa development. We have a historic opportunity to help integrate African countries into the global economy, to rethink dependency on foreign assistance and to help strengthen civil society and economic and political institutions. No one believes this bill is a panacea for Africa, but it is very much in our interests to play a constructive role in the evolving economic transition in Africa. If the United States has the vision to be a major player in Africa's economic and political improvement, we will also be a major beneficiary. If we are successful, Africa will provide new trade and investment opportunities for the United States. It will also improve the quality of life for a broader segment of the people of Africa, a goal we must all support and applaud.

Mr. President, I ask that the proposed African Growth and Opportunity Act (AGOA) section-by-section description be printed in the RECORD.

The material follows:

S. 666

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''African Growth and Opportunity Act''.

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

Sec. 2. Findings.
Sec. 3. Statement of policy.
Sec. 4. Eligibility requirements.
Sec. 5. Sub-Saharan Africa defined.

TITLE I—TRADE POLICY FOR SUB-SAHARAN AFRICA

Sec. 101. United States-Sub-Saharan Africa Trade and Economic Cooperation Forum.
Sec. 102. United States-Sub-Saharan Africa Free Trade Area.
Sec. 103. Eliminating trade barriers and encouraging exports.
Sec. 104. Generalized system of preferences.
Sec. 105. Assistant United States trade representative for Sub-Saharan Africa.
Sec. 106. Reporting requirement.

TITLE II—INTERNATIONAL FINANCIAL AND FOREIGN RELATIONS POLICY FOR SUB-SAHARAN AFRICA

Sec. 201. International financial institutions and debt reduction.
Sec. 202. Executive branch initiatives.
Sec. 203. Sub-Saharan Africa Infrastructure Fund.
Sec. 204. Overseas Private Investment Corporation and Export-Import Bank initiatives.
Sec. 205. Expansion of the United States and foreign commercial service in Sub-Saharan Africa.
Sec. 206. Donation of air traffic control equipment to eligible Sub-Saharan African countries.

SEC. 2. FINDINGS.

The Congress finds that it is in the mutual economic interest of the United States and sub-Saharan Africa to promote stable and sustainable economic growth and development in sub-Saharan Africa and that sustained economic growth in sub-Saharan Africa depends in large measure upon the development of a receptive environment for trade and investment. To that end, the United States seeks to facilitate market-led economic growth in, and thereby the social and economic development of, the countries of sub-Saharan Africa. In particular, the United States seeks to assist sub-Saharan African countries, and the private sector in those countries, to achieve economic self-reliance by—

(1) strengthening and expanding the private sector in sub-Saharan Africa, especially women-owned businesses;

(2) encouraging increased trade and investment between the United States and sub-Saharan Africa;

(3) reducing tariff and nontariff barriers and other trade obstacles;

(4) expanding United States assistance to sub-Saharan Africa's regional integration efforts;

(5) negotiating free trade areas;

(6) establishing a United States-Sub-Saharan Africa Trade and Investment Partnership;

(7) focusing on countries committed to accountable government, economic reform, and the eradication of poverty;

(8) establishing a United States-Sub-Saharan Africa Economic Cooperation Forum; and

(9) continuing to support development assistance for those countries in sub-Saharan Africa attempting to build civil societies.

SEC. 3. STATEMENT OF POLICY.

The Congress supports economic self-reliance for sub-Saharan African countries, particularly those committed to—

(1) economic and political reform;

(2) market incentives and private sector growth;

(3) the eradication of poverty; and

(4) the importance of women to economic growth and development.

SEC. 4. ELIGIBILITY REQUIREMENTS.

(a) IN GENERAL.—A sub-Saharan African country shall be eligible to participate in programs, projects, or activities, or receive assistance or other benefits under this Act if the President determines that the country does not engage in gross violations of internationally recognized human rights and has established, or is making continual progress toward establishing, a market-based economy, such as the establishment and enforcement of appropriate policies relating to—

(1) promoting free movement of goods and services between the United States and sub-Saharan Africa and among countries in sub-Saharan Africa;

(2) promoting the expansion of the production base and the transformation of commodities and nontraditional products for exports through joint venture projects between African and foreign investors;

(3) trade issues, such as protection of intellectual property rights, improvements in standards, testing, labeling and certification, and government procurement;

(4) the protection of property rights, such as protection against expropriation and a functioning and fair judicial system;

(5) appropriate fiscal systems, such as reducing high import and corporate taxes, controlling government consumption, participation in bilateral investment treaties, and the harmonization of such treaties to avoid double taxation;

(6) foreign investment issues, such as the provision of national treatment for foreign investors, removing restrictions on investment, and other measures to create an environment conducive to domestic and foreign investment;

(7) supporting the growth of regional markets within a free trade area framework;

(8) governance issues, such as eliminating government corruption, minimizing government intervention in the market such as price controls and subsidies, and streamlining the business license process;

(9) supporting the growth of the private sector, in particular by promoting the emergence of a new generation of African entrepreneurs;

(10) encouraging the private ownership of government-controlled economic enterprises through divestiture programs; and

(11) observing the rule of law, including equal protection under the law and the right to due process and a fair trial.

(b) ADDITIONAL FACTORS.—In determining whether a sub-Saharan African country is eligible under subsection (a), the President shall take into account the following factors:

(1) An expression by such country of its desire to be an eligible country under subsection (a).

(2) The extent to which such country has made substantial progress toward—

(A) reducing tariff levels;

(B) binding its tariffs in the World Trade Organization and assuming meaningful binding obligations in other sectors of trade; and

(C) eliminating nontariff barriers to trade.

(3) Whether such country, if not already a member of the World Trade Organization, is actively pursuing membership in that Organization.

(4) Where applicable, the extent to which such country is in material compliance with its obligations to the International Monetary Fund and other international financial institutions.

(5) The extent to which such country has a recognizable commitment to reducing poverty, increasing the availability of health care and educational opportunities, the expansion of physical infrastructure in a manner designed to maximize accessibility, increased access to market and credit facilities for small farmers and producers, and improved economic opportunities for women as entrepreneurs and employees, and promoting and enabling the formation of capital to support the establishment and operation of micro-enterprises.

(6) Whether or not such country engages in activities that undermine United States national security or foreign policy interests.

(c) CONTINUING COMPLIANCE.—

(1) MONITORING AND REVIEW OF CERTAIN COUNTRIES.—The President shall monitor and review the progress of sub-Saharan African countries in order to determine their current or potential eligibility under subsection (a). Such determinations shall be based on quantitative factors to the fullest extent possible and shall be included in the annual report required by section 106.

(2) INELIGIBILITY OF CERTAIN COUNTRIES.—A sub-Saharan African country described in paragraph (1) that has not made continual progress in meeting the requirements with which it is not in compliance shall be ineligible to participate in programs, projects, or activities, or receive assistance or other benefits, under this Act.

SEC. 5. SUB-SAHARAN AFRICA DEFINED.

For purposes of this Act, the terms ''sub-Saharan Africa'', ''sub-Saharan African country'', ''country in sub-Saharan Africa'', and ''countries in sub-Saharan Africa'' refer to the following or any successor political entities:

Republic of Angola (Angola)
Republic of Botswana (Botswana)
Republic of Burundi (Burundi)
Republic of Cape Verde (Cape Verde)
Republic of Chad (Chad)
Democratic Republic of Congo
Republic of the Congo (Congo)
Republic of Djibouti (Djibouti)
State of Eritrea (Eritrea)
Gabonese Republic (Gabon)
Republic of Ghana (Ghana)
Republic of Guinea-Bissau (Guinea-Bissau)
Kingdom of Lesotho (Lesotho)
Republic of Madagascar (Madagascar)
Republic of Mali (Mali)
Republic of Mauritius (Mauritius)
Republic of Namibia (Namibia)
Federal Republic of Nigeria (Nigeria)
Democratic Republic of Sao Tomé and Principe (Sao Tomé and Principe)
Republic of Sierra Leone (Sierra Leone)
Somalia
Kingdom of Swaziland (Swaziland)
Republic of Togo (Togo)
Republic of Zimbabwe (Zimbabwe)
Republic of Benin (Benin)
Burkina Faso (Burkina)
Republic of Cameroon (Cameroon)
Central African Republic
Federal Islamic Republic of the Comoros (Comoros)
Republic of Côte d'Ivoire (Côte d'Ivoire)
Republic of Equatorial Guinea (Equatorial Guinea)
Ethiopia
Republic of the Gambia (Gambia)
Republic of Guinea (Guinea)
Republic of Kenya (Kenya)
Republic of Liberia (Liberia)
Republic of Malawi (Malawi)
Islamic Republic of Mauritania (Mauritania)
Republic of Mozambique (Mozambique)
Republic of Niger (Niger)
Republic of Rwanda (Rwanda)
Republic of Senegal (Senegal)
Republic of Seychelles (Seychelles)
Republic of South Africa (South Africa)
Republic of Sudan (Sudan)
United Republic of Tanzania (Tanzania)
Republic of Uganda (Uganda)
Republic of Zambia (Zambia)

TITLE I—TRADE POLICY FOR SUB-SAHARAN AFRICA

SEC. 101. UNITED STATES-SUB-SAHARAN AFRICA TRADE AND ECONOMIC COOPERATION FORUM.

(a) DECLARATION OF POLICY.—The President shall convene annual high-level meetings between appropriate officials of the United States Government and officials of the governments of sub-Saharan African countries in order to foster close economic ties between the United States and sub-Saharan Africa.

(b) ESTABLISHMENT.—Not later than 12 months after the date of the enactment of this Act, the President, after consulting with Congress and the governments concerned, shall establish a United States-Sub-Saharan Africa Trade and Economic Cooperation Forum (in this section referred to as the ''Forum'').

(c) REQUIREMENTS.—In creating the Forum, the President shall meet the following requirements:

(1) The President shall direct the Secretary of Commerce, the Secretary of the Treasury, the Secretary of State, and the United States Trade Representative to host the first annual meeting with the counterparts of such Secretaries from the governments of sub-Saharan African countries eligible under section 4, the Secretary General of the Organization of African Unity, and government officials from other appropriate countries in Africa, to discuss expanding trade and investment relations between the United States and sub-Saharan Africa and the implementation of this Act including encouraging joint ventures between small and large businesses.

(2)(A) The President, in consultation with the Congress, shall encourage United States nongovernmental organizations to host annual meetings with nongovernmental organizations from sub-Saharan Africa in conjunction with the annual meetings of the Forum for the purpose of discussing the issues described in paragraph (1).

(B) The President, in consultation with the Congress, shall encourage United States representatives of the private sector to host annual meetings with representatives of the private sector from sub-Saharan Africa in conjunction with the annual meetings of the Forum for the purpose of discussing the issues described in paragraph (1).

(3) The President shall, to the extent practicable, meet with the heads of governments of sub-Saharan African countries eligible under section 4 not less than once every two years for the purpose of discussing the issues described in paragraph (1). The first such meeting should take place not later than twelve months after the date of the enactment of this Act.

(d) DISSEMINATION OF INFORMATION BY USIA.—In order to assist in carrying out the purposes of the Forum, the United States Information Agency shall disseminate regularly, through multiple media, economic information in support of the free market economic reforms described in this Act.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

(f) LIMITATION ON USE OF FUNDS.—None of the funds authorized under this section may be used to create or support any nongovernmental organization for the purpose of expanding or facilitating trade between the United States and sub-Saharan Africa.

SEC. 102. UNITED STATES–SUB-SAHARAN AFRICA FREE TRADE AREA.

(a) DECLARATION OF POLICY.—The Congress declares that a United States–Sub-Saharan Africa Free Trade Area should be established, or free trade agreements should be entered into, in order to serve as the catalyst for increasing trade between the United States and sub-Saharan Africa and increasing private sector development in sub-Saharan Africa.

(b) PLAN REQUIREMENT.—

(1) IN GENERAL.—The President, taking into account the provisions of the treaty establishing the African Economic Community and the willingness of the governments of sub-Saharan African countries to engage in negotiations to enter into free trade agreements, shall develop a plan for the purpose of entering into one or more trade agreements with sub-Saharan African countries eligible under section 4 in order to establish a United States–Sub-Saharan Africa Free Trade Area (in this section referred to as the ''Free Trade Area'').

(2) ELEMENTS OF PLAN.—The plan shall include the following:

(A) The specific objectives of the United States with respect to the establishment of the Free Trade Area and a suggested timetable for achieving those objectives.

(B) The benefits to both the United States and sub-Saharan Africa with respect to the Free Trade Area.

(C) A mutually agreed-upon timetable for establishing the Free Trade Area.

(D) The implications for and the role of regional and sub-regional organizations in sub-Saharan Africa with respect to the Free Trade Area.

(E) Subject matter anticipated to be covered by the agreement for establishing the Free Trade Area and United States laws, programs, and policies, as well as the laws of participating eligible African countries and existing bilateral and multilateral and economic cooperation and trade agreements, that may be affected by the agreement or agreements.

(F) Procedures to ensure the following:

(i) Adequate consultation with the Congress and the private sector during the negotiation of the agreement or agreements for establishing the Free Trade Area.

(ii) Consultation with the Congress regarding all matters relating to implementation of the agreement or agreements.

(iii) Approval by the Congress of the agreement or agreements.

(iv) Adequate consultations with the relevant African governments and African regional and subregional intergovernmental organizations during the negotiations of the agreement or agreements.

(c) REPORTING REQUIREMENT.—Not later than 12 months after the date of the enactment of this Act, the President shall prepare and transmit to the Congress a report containing the plan developed pursuant to subsection (b).

SEC. 103. ELIMINATING TRADE BARRIERS AND ENCOURAGING EXPORTS.

(a) FINDINGS.—The Congress makes the following findings:

(1) The lack of competitiveness of sub-Saharan Africa in the global market, especially in the manufacturing sector, make it a limited threat to market disruption and no threat to United States jobs.

(2) Annual textile and apparel exports to the United States from sub-Saharan Africa represent less than 1 percent of all textile and apparel exports to the United States, which totaled $54,001,863,000 in 1997.

(3) Sub-Saharan Africa has limited textile manufacturing capacity. During 1999 and the succeeding 4 years, this limited capacity to manufacture textiles and apparel is projected to grow at a modest rate. Given this limited capacity to export textiles and apparel, it will be very difficult for these exports from sub-Saharan Africa, during 1999 and the succeeding 9 years, to exceed 3 percent annually of total imports of textile and apparel to the United States. If these exports from sub-Saharan Africa remain around 3 percent of total imports, they will not represent a threat to United States workers, consumers, or manufacturers.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) it would be to the mutual benefit of the countries in sub-Saharan Africa and the United States to ensure that the commitments of the World Trade Organization and associated agreements are faithfully implemented in each of the member countries, so as to lay the groundwork for sustained growth in textile and apparel exports and trade under agreed rules and disciplines;

(2) reform of trade policies in sub-Saharan Africa with the objective of removing structural impediments to trade, consistent with obligations under the World Trade Organization, can assist the countries of the region in achieving greater and greater diversification of textile and apparel export commodities and products and export markets; and

(3) the President should support textile and apparel trade reform in sub-Saharan Africa by, among other measures, providing technical assistance, sharing of information to expand basic knowledge of how to trade with the United States, and encouraging business-to-business contacts with the region.

(c) TREATMENT OF QUOTAS.—

(1) KENYA AND MAURITIUS.—Pursuant to the Agreement on Textiles and Clothing, the United States shall eliminate the existing quotas on textile and apparel exports to the United States—

(A) from Kenya within 30 days after that country adopts an efficient visa system to guard against unlawful transshipment of textile and apparel goods and the use of counterfeit documents; and

(B) from Mauritius within 30 days after that country adopts such a visa system.

The Customs Service shall provide the necessary technical assistance to Kenya and Mauritius in the development and implementation of those visa systems.

(2) OTHER SUB-SAHARAN COUNTRIES.—The President shall continue the existing no quota policy for countries in sub-Saharan Africa. The President shall submit to the Congress, not later than March 31 of each year, a report on the growth in textiles and apparel exports to the United States from countries in sub-Saharan Africa in order to protect United States consumers, workers, and textile manufacturers from economic injury on account of the no quota policy.

(d) CUSTOMS PROCEDURES AND ENFORCEMENT.—

(1) ACTIONS BY COUNTRIES AGAINST TRANSSHIPMENT AND CIRCUMVENTION.—The President should ensure that any country in sub-Saharan Africa that intends to export textile and apparel goods to the United States—

(A) has in place a functioning and effective visa system and domestic laws and enforcement procedures to guard against unlawful transshipment of textile and apparel goods and the use of counterfeit documents; and

(B) will cooperate fully with the United States to address and take action necessary to prevent circumvention, as provided in Article 5 of the Agreement on Textiles and Clothing.

(2) PENALTIES AGAINST EXPORTERS.—If the President determines, based on sufficient evidence, that an exporter has willfully falsified information regarding the country of origin, manufacture, processing, or assembly of a textile or apparel article for which duty-free treatment under section 503(a)(1)(C) of the Trade Act of 1974 is claimed, then the President shall deny to such exporter, and any successors of such exporter, for a period

of 2 years, duty-free treatment under such section for textile and apparel articles.

(3) APPLICABILITY OF UNITED STATES LAWS AND PROCEDURES.—All provisions of the laws, regulations, and procedures of the United States relating to the denial of entry of articles or penalties against individuals or entities for engaging in illegal transshipment, fraud, or other violations of the customs laws shall apply to imports from Sub-Saharan countries.

(4) MONITORING AND REPORTS TO CONGRESS.—The Customs Service shall monitor and the Commissioner of Customs shall submit to the Congress, not later than March 31 of each year, a report on the effectiveness of the visa systems described in subsection (c)(1) and paragraph (1) of this subsection and on measures taken by countries in Sub-Saharan Africa which export textiles or apparel to the United States to prevent circumvention as described in Article 5 of the Agreement on Textiles and Clothing.

(e) DEFINITION.—For purposes of this section, the term ''Agreement on Textiles and Clothing'' means the Agreement on Textiles and Clothing referred to in section 101(d)(4) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(4)).

SEC. 104. GENERALIZED SYSTEM OF PREFERENCES.

(a) PREFERENTIAL TARIFF TREATMENT FOR CERTAIN ARTICLES.—Section 503(a)(1) of the Trade Act of 1974 (19 U.S.C. 2463(a)(1)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by inserting after subparagraph (B) the following:

''(C) ELIGIBLE COUNTRIES IN SUB-SAHARAN AFRICA.—The President may provide duty-free treatment for any article set forth in paragraph (1) of subsection (b) that is the growth, product, or manufacture of an eligible country in sub-Saharan Africa that is a beneficiary developing country, if, after receiving the advice of the International Trade Commission in accordance with subsection (e), the President determines that such article is not import-sensitive in the context of imports from eligible countries in sub-Saharan Africa. This subparagraph shall not affect the designation of eligible articles under subparagraph (B).''.

(b) RULES OF ORIGIN.—Section 503(a)(2) of the Trade Act of 1974 (19 U.S.C. 2463(a)(2)) is amended by adding at the end the following:

''(C) ELIGIBLE COUNTRIES IN SUB-SAHARAN AFRICA.—For purposes of determining the percentage referred to in subparagraph (A) in the case of an article of an eligible country in sub-Saharan Africa that is a beneficiary developing country—

''(i) if the cost or value of materials produced in the customs territory of the United States is included with respect to that article, an amount not to exceed 15 percent of the appraised value of the article at the time it is entered that is attributed to such United States cost or value may be applied toward determining the percentage referred to in subparagraph (A); and

''(ii) the cost or value of the materials included with respect to that article that are produced in any beneficiary developing country that is an eligible country in sub-Saharan Africa shall be applied in determining such percentage.''.

(c) WAIVER OF COMPETITIVE NEED LIMITATION.—Section 503(c)(2)(D) of the Trade Act of 1974 (19 U.S.C. 2463(c)(2)(D)) is amended to read as follows:

''(D) LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRIES AND ELIGIBLE COUNTRIES IN SUB-SAHARAN AFRICA.—Subparagraph (A) shall not apply to any least-developed beneficiary developing country or any eligible country in sub-Saharan Africa.''.

(d) EXTENSION OF PROGRAM.—Section 505 of the Trade Act of 1974 (19 U.S.C. 2465) is amended to read as follows:

''SEC. 505. DATE OF TERMINATION.

''(a) COUNTRIES IN SUB-SAHARAN AFRICA.—No duty-free treatment provided under this title shall remain in effect after June 30, 2009, with respect to beneficiary developing countries that are eligible countries in sub-Saharan Africa.

''(b) OTHER COUNTRIES.—No duty-free treatment provided under this title shall remain in effect after June 30, 1999, with respect to beneficiary developing countries other than those provided for in subsection (a).''.

(e) DEFINITION.—Section 507 of the Trade Act of 1974 (19 U.S.C. 2467) is amended by adding at the end the following:

''(6) ELIGIBLE COUNTRY IN SUB-SAHARAN AFRICA.—The terms 'eligible country in sub-Saharan Africa' and 'eligible countries in sub-Saharan Africa' mean a country or countries that the President has determined to be eligible under section 4 of the African Growth and Opportunity Act.''.

(f) EFFECTIVE DATE.—The amendments made by this section take effect on July 1, 1999.

SEC. 105. ASSISTANT UNITED STATES TRADE REPRESENTATIVE FOR SUB-SAHARAN AFRICA.

(a) SENSE OF CONGRESS.—It is the sense of the Congress that the position of Assistant United States Trade Representative for African Affairs is integral to the United States commitment to increasing United States—sub-Saharan African trade and investment.

(b) MAINTENANCE OF POSITION.—The President shall maintain a position of Assistant United States Trade Representative for African Affairs within the Office of the United States Trade Representative to direct and coordinate interagency activities on United States-Africa trade policy and investment matters and serve as—

(1) a primary point of contact in the executive branch for those persons engaged in trade between the United States and sub-Saharan Africa; and

(2) the chief advisor to the United States Trade Representative on issues of trade with Africa.

(c) FUNDING AND STAFF.—The President shall ensure that the Assistant United States Trade Representative for African Affairs has adequate funding and staff to carry out the duties described in subsection (b), subject to the availability of appropriations.

SEC. 106. REPORTING REQUIREMENT.

The President shall submit to the Congress, not later than 1 year after the date of the enactment of this Act, and not later than the end of each of the next 6 1-year periods thereafter, a comprehensive report on the trade and investment policy of the United States for sub-Saharan Africa, and on the implementation of this Act. The last report required by section 134(b) of the Uruguay Round Agreements Act (19 U.S.C. 3554(b)) shall be consolidated and submitted with the first report required by this section.

TITLE II—INTERNATIONAL FINANCIAL AND FOREIGN RELATIONS POLICY FOR SUB-SAHARAN AFRICA

SEC. 201. INTERNATIONAL FINANCIAL INSTITUTIONS AND DEBT REDUCTION.

(a) BETTER MECHANISMS TO FURTHER GOALS FOR SUB-SAHARAN AFRICA.—It is the sense of the Congress that the Secretary of the Treasury should instruct the United States Executive Directors of the International Bank for Reconstruction and Development, the International Monetary Fund, and the African Development Bank to use the voice and votes of the Executive Directors to encourage vigorously their respective institutions to develop enhanced mechanisms which further the following goals in eligible countries in sub-Saharan Africa:

(1) Strengthening and expanding the private sector, especially among women-owned businesses.

(2) Reducing tariffs, nontariff barriers, and other trade obstacles, and increasing economic integration.

(3) Supporting countries committed to accountable government, economic reform, the eradication of poverty, and the building of civil societies.

(4) Supporting deep debt reduction at the earliest possible date with the greatest amount of relief for eligible poorest countries under the ''Heavily Indebted Poor Countries'' (HIPC) debt initiative.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that relief provided to countries in sub-Saharan Africa which qualify for the Heavily Indebted Poor Countries debt initiative should primarily be made through grants rather than through extended-term debt, and that interim relief or interim financing should be provided for eligible countries that establish a strong record of macroeconomic reform.

SEC. 202. EXECUTIVE BRANCH INITIATIVES.

(a) STATEMENT OF CONGRESS.—The Congress recognizes that the stated policy of the executive branch in 1997, the ''Partnership for Growth and Opportunity in Africa'' initiative, is a step toward the establishment of a comprehensive trade and development policy for sub-Saharan Africa. It is the sense of the Congress that this Partnership is a companion to the policy goals set forth in this Act.

(b) TECHNICAL ASSISTANCE TO PROMOTE ECONOMIC REFORMS AND DEVELOPMENT.—In addition to continuing bilateral and multilateral economic and development assistance, the President shall target technical assistance toward—

(1) developing relationships between United States firms and firms in sub-Saharan Africa through a variety of business associations and networks;

(2) providing assistance to the governments of sub-Saharan African countries to—

(A) liberalize trade and promote exports;

(B) bring their legal regimes into compliance with the standards of the World Trade Organization in conjunction with membership in that Organization;

(C) make financial and fiscal reforms; and

(D) promote greater agribusiness linkages;

(3) addressing such critical agricultural policy issues as market liberalization, agricultural export development, and agribusiness investment in processing and transporting agricultural commodities;

(4) increasing the number of reverse trade missions to growth-oriented countries in sub-Saharan Africa;

(5) increasing trade in services; and

(6) encouraging greater sub-Saharan participation in future negotiations in the World Trade Organization on services and making further commitments in their schedules to the General Agreement on Trade in Services in order to encourage the removal of tariff and nontariff barriers.

SEC. 203. SUB-SAHARAN AFRICA INFRASTRUCTURE FUND.

(a) INITIATION OF FUNDS.—It is the sense of the Congress that the Overseas Private Investment Corporation should exercise the authorities it has to initiate an equity fund or equity funds in support of projects in the countries in sub-Saharan Africa, in addition to the existing equity fund for sub-Saharan Africa created by the Corporation.

(b) STRUCTURE AND TYPES OF FUNDS.—

(1) STRUCTURE.—Each fund initiated under subsection (a) should be structured as a partnership managed by professional private sector fund managers and monitored on a continuing basis by the Corporation.

(2) CAPITALIZATION.—Each fund should be capitalized with a combination of private equity capital, which is not guaranteed by the Corporation, and debt for which the Corporation provides guaranties.

(3) INFRASTRUCTURE FUND.—One or more of the funds, with combined assets of up to $500,000,000, should be used in support of infrastructure projects in countries of sub-Saharan Africa.

(4) EMPHASIS.—The Corporation shall ensure that the funds are used to provide support in particular to women entrepreneurs and to innovative investments that expand opportunities for women and maximize employment opportunities for poor individuals.

SEC. 204. OVERSEAS PRIVATE INVESTMENT CORPORATION AND EXPORT-IMPORT BANK INITIATIVES.

(a) OVERSEAS PRIVATE INVESTMENT CORPORATION.—

(1) ADVISORY COMMITTEE.—Section 233 of the Foreign Assistance Act of 1961 (22 U.S.C. 2193) is amended by adding at the end the following:

''(e) ADVISORY COMMITTEE.—The Board shall take prompt measures to increase the loan, guarantee, and insurance programs, and financial commitments, of the Corporation in sub-Saharan Africa, including through the use of an advisory committee to assist the Board in developing and implementing policies, programs, and financial instruments with respect to sub-Saharan Africa. In addition, the advisory committee shall make recommendations to the Board on how the Corporation can facilitate greater support by the United States for trade and investment with and in sub-Saharan Africa. The advisory committee shall terminate 4 years after the date of the enactment of this subsection.''.

(2) REPORTS TO THE CONGRESS.—Within 6 months after the date of the enactment of this Act, and annually for each of the 4 years thereafter, the Board of Directors of the Overseas Private Investment Corporation shall submit to the Congress a report on the steps that the Board has taken to implement section 233(e) of the Foreign Assistance Act of 1961 (as added by paragraph (1)) and any recommendations of the advisory board established pursuant to such section.

(b) EXPORT-IMPORT BANK.—

(1) ADVISORY COMMITTEE FOR SUB-SAHARAN AFRICA.—Section 2(b) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)) is amended by inserting after paragraph (12) the following:

''(13)(A) The Board of Directors of the Bank shall take prompt measures, consistent with the credit standards otherwise required by law, to promote the expansion of the Bank's financial commitments in sub-Saharan Africa under the loan, guarantee, and insurance programs of the Bank.

''(B)(i) The Board of Directors shall establish and use an advisory committee to advise the Board of Directors on the development and implementation of policies and programs designed to support the expansion described in subparagraph (A).

''(ii) The advisory committee shall make recommendations to the Board of Directors on how the Bank can facilitate greater support by United States commercial banks for trade with sub-Saharan Africa.

''(iii) The advisory committee shall terminate 4 years after the date of the enactment of this subparagraph.''.

(2) REPORTS TO THE CONGRESS.—Within 6 months after the date of the enactment of this Act, and annually for each of the 4 years thereafter, the Board of Directors of the Export-Import Bank of the United States shall submit to the Congress a report on the steps that the Board has taken to implement section 2(b)(13)(B) of the Export-Import Bank Act of 1945 (as added by paragraph (1)) and any recommendations of the advisory committee established pursuant to such section.

SEC. 205. EXPANSION OF THE UNITED STATES AND FOREIGN COMMERCIAL SERVICE IN SUB-SAHARAN AFRICA.

(a) FINDINGS.—The Congress makes the following findings:

(1) The United States and Foreign Commercial Service (hereafter in this section referred to as the ''Commercial Service'') plays an important role in helping United States businesses identify export opportunities and develop reliable sources of information on commercial prospects in foreign countries.

(2) During the 1980s, the presence of the Commercial Service in sub-Saharan Africa consisted of 14 professionals providing services in eight countries. By early 1997, that presence had been reduced by half to seven, in only four countries.

(3) Since 1997, the Department of Commerce has slowly begun to increase the presence of the Commercial Service in sub-Saharan Africa, adding five full-time officers to established posts.

(4) Although the Commercial Service Officers in these countries have regional responsibilities, this kind of coverage does not adequately service the needs of United States businesses attempting to do business in sub-Saharan Africa.

(5) The Congress has, on several occasions, encouraged the Commercial Service to focus its resources and efforts in countries or regions in Europe or Asia to promote greater United States export activity in those markets.

(6) Because market information is not widely available in many sub-Saharan African countries, the presence of additional Commercial Service Officers and resources can play a significant role in assisting United States businesses in markets in those countries.

(b) APPOINTMENTS.—Subject to the availability of appropriations, by not later than December 31, 2000, the Secretary of Commerce, acting through the Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Service, shall take steps to ensure that—

(1) at least 20 full-time Commercial Service employees are stationed in sub-Saharan Africa; and

(2) full-time Commercial Service employees are stationed in not less than ten different sub-Saharan African countries.

(c) COMMERCIAL SERVICE INITIATIVE FOR SUB-SAHARAN AFRICA.—In order to encourage the export of United States goods and services to sub-Saharan African countries, the Commercial Service shall make a special effort to—

(1) identify United States goods and services which are not being exported to sub-Saharan African countries but which are being exported to those countries by competitor nations;

(2) identify, where appropriate, trade barriers and noncompetitive actions, including violations of intellectual property rights, that are preventing or hindering sales of United States goods and services to, or the operation of United States companies in, sub-Saharan Africa;

(3) present, periodically, a list of the goods and services identified under paragraph (1), and any trade barriers or noncompetitive actions identified under paragraph (2), to appropriate authorities in sub-Saharan African countries with a view to securing increased market access for United States exporters of goods and services;

(4) facilitate the entrance by United States businesses into the markets identified under paragraphs (1) and (2); and

(5) monitor and evaluate the results of efforts to increase the sales of goods and services in such markets.

(d) REPORTS TO CONGRESS.—Not later than one year after the date of the enactment of this Act, and each year thereafter for five years, the Secretary of Commerce, in consultation with the Secretary of State, shall report to the Congress on actions taken to carry out subsections (b) and (c). Each report shall specify—

(1) in what countries full-time Commercial Service Officers are stationed, and the number of such officers placed in each such country;

(2) the effectiveness of the presence of the additional Commercial Service Officers in increasing United States exports to sub-Saharan African countries; and

(3) the specific actions taken by Commercial Service Officers, both in sub-Saharan African countries and in the United States, to carry out subsection (c), including identifying a list of targeted export sectors and countries.

SEC. 206. DONATION OF AIR TRAFFIC CONTROL EQUIPMENT TO ELIGIBLE SUB-SAHARAN AFRICAN COUNTRIES.

It is the sense of the Congress that, to the extent appropriate, the United States Government should make every effort to donate to governments of sub-Saharan African countries (determined to be eligible under section 4 of this Act) air traffic control equipment that is no longer in use, including appropriate related reimbursable technical assistance.

AFRICAN GROWTH AND OPPORTUNITY ACT (AGOA)—SECTION-BY-SECTION SUMMARY

Policy. The AGOA establishes as U.S. policy the creation of a transition path from development assistance to economic self-reliance for those sub-Sahara countries committed to economic and political reform, market incentives and private sector growth. Eligibility requirements are established for participation in the programs and benefits of the bill. The bill will not require any cuts or increases in the USAID budget. The bill includes separate Trade and Foreign Policy Titles.

Free Trade Area. The AGOA directs the President to develop a plan for trade agreements to establish a U.S.-Sub Sahara Africa Free Trade Area to provide an incentive for increasing trade between the U.S. and Africa and to stimulate private sector development in the region.

Trade Initiative. The AGOA would eliminate quotas on textiles and apparel from Kenya and Mauritius after these countries adopt a visa system to guard against transshipment. It continues the existing no-quota policy in Africa through 2005. Further, it authorizes the President to grant duty-free treatment for certain products from Africa currently excluded from the GSP program, subject to an import sensitivity analysis by the ITC, and extends the GSP program for Africa for 10 years.

U.S.-Africa Economic Forum. The AGOA would establish a U.S.-Africa Economic Forum to facilitate annual high level discussions of bilateral and multilateral trade and investment policies and initiatives. The Forum would work with the private sector to develop a long term trade and investment agenda.

Equity and Investment Funds. The AGOA directs OPIC to create a privately-funded $150 million equity fund and privately-funded $500

Million infrastructure fund for Africa. Both funds would support innovative investment policies to expand opportunities for women and to maximize employment opportunities for the poor.

Greater Attention to Africa. The AGOA calls for at least one member of the board of directors of the EX-IM Bank and the OPIC to have extensive private sector experience in Africa. Both the Bank and OPIC would establish private sector advisory committees with experience in Africa and both would report periodically to the Congress on their loan, guarantee and insurance programs in Africa.●

● Mr. McCAIN. Mr. President, I rise today to support legislation introduced by my esteemed colleague, Senator LUGAR. The African Growth and Opportunity Act will create an historic new U.S. trade and investment policy for Africa.

It is regrettable that the public perception of Sub-Saharan Africa remains a region which is underdeveloped, poor, ravaged by famine and wars, and ruled by authoritarian leaders. This is not an accurate picture of today's Africa.

The Africa of the late 1990s is a continent struggling on the road to economic and political reform. Some 30 Sub-Saharan African countries are implementing economic reforms, including liberalizing trade and investment regimes, rationalizing tariff and exchange rates, and reducing barriers to investment and stock market development. In addition, more than 30 Sub-Saharan African countries are also in various stages of democratic transformation that will allow their citizens to have the same type of participation in their governments that, as Americans, we hold dear. Nigeria's recent election, despite its flaws, is a concrete example of the movement toward democracy in Africa.

The African Growth and Opportunity Act is an important piece of legislation designed to promote continued reform in Africa. The main strength of the bill is its reliance on trade incentives, not financial aid. These trade incentives are intended to result in the political and economic well-being of African citizens. American companies are given incentives to invest in these countries, and help them learn how to become members of the world marketplace. For many years, we have poured our financial resources into foreign aid programs that have met with limited success. This bill is based on the commonsense principle that if you give a nation a handout, you feed it for a day, but if you teach it to grow and trade, you assist it to reach permanent independence and self-reliance.

There is also a benefit for the United States in this legislation. Currently, United States' exports to Sub-Saharan Africa are $6 billion, which support 100,000 American jobs. However, the U.S. has only a 7% share in the African market, while Europe has a 40% share. More U.S. trade and investment in Sub-Saharan Africa will increase U.S. market share, and create more jobs here in the U.S.

More important, it should be pointed out that this legislation will foster interdependence and economic growth between countries that have been torn apart by war, disease, and harmful economic policies. By trading with the United States and each other, these nations will see the benefits of peace and stability to economic growth. An interdependent and democratic Africa will be less likely to suffer from civil strife.

I hope that my colleagues will join us in supporting this legislation that will open up a new chapter in U.S.-African relations.●

By Mr. McCAIN:

S. 667. A bill to improve and reform elementary and secondary education; to the Committee on Finance.

EDUCATING AMERICA'S CHILDREN FOR TOMORROW (ED-ACT)

Mr. McCAIN. President, centuries ago, Aristotle wrote, ''All who have meditated in the art of governing mankind have been convinced that the fate of empires depends on the education of the youth.'' His words still hold true today. Educating our children is a critical component in their quest for personal success and fulfillment, but it also plays a pivotal role in the success of our nation economically, intellectually, civically and morally.

Like many Americans, I have grave concerns about the current condition of our nation's education system. If a report card on our educational system were sent home today, it would be full of unsatisfactory and incomplete marks. In fact, it would be full of ''D's'' and ''F's.'' These abominable grades demonstrate our failure to meet the needs of our nation's students in kindergarten through twelfth grade.

Failure is clearly evident throughout the educational system. One prominent illustration of our nation's failure is seen in the results of the Third International Mathematics and Science Study (TIMSS.) Over forty countries participated in the 1996 study which tested science and mathematical abilities of students in the fourth, eighth and twelfth grades. Tragically, American students scored lower than students in other countries. According to this study, our twelfth graders scored near the bottom, placing 19th out of 21 nations in math and 16th in science, while scoring at the absolutely bottom in physics.

Meanwhile, students in countries which are struggling economically, socially and politically, such as Russia, outscored U.S. children in math and scored far above them in advanced math and physics. Clearly, we must make significant changes in our children's academic performance in order to remain a viable force in the world economy.

We can also see our failure when we look at the federal government's efforts to combat illiteracy. We spend over $8 billion a year on programs to eradicate illiteracy across the country. Yet, we have not seen any significant improvement in literacy in any segment of our population. Today, more than 40 million Americans cannot read a menu, instructions, medicine labels or a newspaper. And, tragically, four out of ten children in third grade cannot read.

For too long, Washington has been creating new educational programs which provide good sound-bites for politicians, make great campaign slogans, or serve the specific needs of select interests groups, but completely ignore the fundamental academic needs of our children. The time has come for us to free our schools from the shackles of the federal government and give them the freedom and the tools to educate children.

The first step is putting parents back in charge. Federal education dollars should be spent where they do the most good. The ED-ACT would funnel millions of dollars directly into our classrooms, rather than wasting education dollars on federal red tape. By sending federal elementary and secondary education funds directly to local education agencies (LEAs), schools will be able to utilize the funds for the unique needs of their students rather than wasting their time jumping through hoops for government bureaucrats. Giving the money directly to the LEAs with strong accountability requirements for the academic performance and improvement of our children is the right thing to do.

We must have higher learning expectations for our children, but we cannot and should not have these standards controlled at the national level. States and local communities must control the development, implementation and assessment of academic standards. This bill would prohibit federal funds from being used to develop or implement national education tests. National tests and standards only result in new bureaucracies, depriving parents of the opportunity to manage the education of their children.

ED-ACT strengthens and reauthorizes the successful Troops to Teachers program. As many of my colleagues know, the Troops to Teachers program was initially created in 1993 to assist military personnel affected by defense downsizing who were interested in utilizing their knowledge, professional skills and expertise as teachers. Unfortunately, the authorization for this program is set to expire at the end of this fiscal year.

Local school districts across the city are facing a shortage of two million teachers over the next decade, and the Troops to Teachers program is an important resource to help schools address this shortfall by recruiting, funding and retaining new teachers to make America's children ready for tomorrow, particularly in the areas of math, reading and science.

ED-ACT would also encourage states to ensure that all Americans are fluent in English, while helping develop innovative initiatives to promote the importance of foreign language skills.

The ability to speak one or more languages, in addition to English, is a tremendous resource to the U.S. because it enhances our competitiveness in global markets. Multilingualism also enhances our nation's diplomatic efforts and leadership role on the international front by fostering greater communication and understanding between people of all nations and cultures.

ED-ACT provides educational opportunities for disadvantaged children by providing parents and students the freedom to choose the best school for their unique academic needs, while encouraging schools to be creative and responsive to the needs of all students. This three-year demonstration would allow up to ten states or localities to implement a voucher program empowering low-income parents with more options for their child's education. Parents should be allowed to use their tax dollars to send their children to the school of their choice, public or private. Tuition vouchers would give low-income families the same choice.

ED–ACT also creates additional financial opportunities for parents, guardians and communities to plan for the educational expenses of their children. First, it would increase the amount allowed to be contributed to a higher education IRA from $500 to $1,000 annually. Under current law, the maximum amount which could be saved for a child throughout their lifetime is $9,000, which would not cover the basic costs of tuition at a private institution, let alone books, foods and living expenses for a student. This amount barely covers the tuition at a public four-year institution, but that is before factoring in inflation, expenses, room and board. In my home state of Arizona, a four-year degree from one of the three state colleges costs about $8,800—and that is just for tuition, not books, food, room and board. In addition, ED–ACT allows a $500 tax credit for taxpayers who make a voluntary contribution to public or private schools.

This bill would also help develop better educational tools for our children by gathering and analyzing pertinent data regarding some of our most vulnerable students, while collecting information about how we can ensure the best teachers are in our classrooms.

Finally, the last section of the ED–ACT reduces the bureaucratic costs at the Department of Education by thirty-five percent no later than October 1, 2004. Far too many resources are spent on funding bureaucrats in Washington, D.C., rather than teaching our children.

Thomas Jefferson said, ''The purpose of education is to create young citizens with knowing heads and loving hearts.'' If we fail to give our children the education they need to nurture their heads and hearts, then we threaten their futures and the future of our nation. The bill I am introducing today is an important step towards ensuring that our children have both the love in their hearts and the knowledge in their heads to not only dream, but to make their dreams a reality.

Mr. President, I ask unanimous consent that a copy of this bill be printed in the RECORD.

There being no objection, the bill was ordered printed in the RECORD, as follows:

S. 667

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; DEFINITIONS.

(a) SHORT TITLE.—This Act may be cited as the ''EDucating America's Children for Tomorrow (ED–ACT)''.

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents; definitions.

TITLE I—EMPOWERING PARENTS AND STUDENTS

Sec. 101. Empowering parents and students.

TITLE II—PROHIBITION REGARDING FUNDING FOR DEVELOPING OR IMPLEMENTING NATIONAL EDUCATION STANDARDS

Sec. 201. Prohibition regarding funding for developing or implementing national education standards.

TITLE III—TROOPS-TO-TEACHERS PROGRAM

Sec. 301. Short title.
Sec. 302. Improvement and transfer of jurisdiction of troops-to-teachers program.

TITLE IV—ENGLISH PLUS AND MULTILINGUALISM

Sec. 401. English plus.
Sec. 402. Multilingualism study.

TITLE V—EDUCATIONAL OPPORTUNITIES FOR DISADVANTAGED CHILDREN

Sec. 501. Purposes.
Sec. 502. Authorization of appropriations; program authority.
Sec. 503. Eligibility.
Sec. 504. Scholarships.
Sec. 505. Eligible children; award rules.
Sec. 506. Applications.
Sec. 507. Approval of programs.
Sec. 508. Amounts and length of grants.
Sec. 509. Uses of funds.
Sec. 510. Effect of programs.
Sec. 511. National evaluation.
Sec. 512. Enforcement.
Sec. 513. Definitions.

TITLE VI—TAX PROVISIONS

Sec. 601. Credit for contributions to schools.
Sec. 602. Increase in annual contribution limit for education individual retirement accounts.

TITLE VII—DEVELOPING BETTER EDUCATION TOOLS

Sec. 701. Educational tools for underserved students.
Sec. 702. Teacher training.
Sec. 703. Putting the best teachers in the classroom.

TITLE VIII—EMPOWERING STUDENTS

Sec. 801. Empowering students.

(c) DEFINITIONS.—In this Act:

(1) COMPTROLLER GENERAL.—The term ''Comptroller General'' means the Comptroller General of the United States.

(2) ELEMENTARY SCHOOL; LOCAL EDUCATIONAL AGENCY; PARENT; SECONDARY SCHOOL; STATE EDUCATIONAL AGENCY.—The terms ''elementary school'', ''local educational agency'', ''parent'', ''secondary school'', and ''State educational agency'' have the meanings given the terms in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801 et seq.).

(3) POVERTY LINE.—The term ''poverty line'' means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Education.

(5) STATE.—The term ''State'' means each of the several States of the United States and the District of Columbia.

TITLE I—EMPOWERING PARENTS AND STUDENTS

SEC. 101. EMPOWERING PARENTS AND STUDENTS.

(a) DIRECT AWARDS TO LOCAL EDUCATIONAL AGENCIES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, for each fiscal year the Secretary shall award the total amount of funds described in paragraph (2) directly to local educational agencies in accordance with paragraph (4) to enable the local educational agencies to carry out the authorized activities described in paragraph (5).

(2) APPLICABLE FUNDING.—The total amount of funds referred to in paragraph (1) are all funds that are appropriated for the Department of Education for a fiscal year to carry out programs or activities under the following provisions of law:

(A) Title III of the Goals 2000: Educate America Act (20 U.S.C. 5881 et seq.).

(B) Title IV of the Goals 2000: Educate America Act (20 U.S.C. 5911 et seq.).

(C) Title VI of the Goals 2000: Educate America Act (20 U.S.C. 5951).

(D) The School-to-Work Opportunities Act of 1994 (20 U.S.C. 6101 et seq.).

(E) Section 1502 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6492).

(F) Title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6601 et seq.).

(G) Title III of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6801 et seq.).

(H) Title IV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7101 et seq.).

(I) Part A of title V of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7201 et seq.).

(J) Part B of title V of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7231 et seq.).

(K) Title VI of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7301 et seq.).

(L) Title VII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7401 et seq.).

(M) Part B of title IX of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7901 et seq.).

(N) Part C of title IX of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7931 et seq.).

(O) Part A of title X of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8001 et seq.).

(P) Part B of title X of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8031 et seq.).

(Q) Part D of title X of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8091 et seq.).

(R) Part F of title X of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8141 et seq.).

(S) Part G of title X of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8161 et seq.).

(T) Part I of title X of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8241 et seq.).

(U) Part J of title X of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8271 et seq.).

(V) Part K of title X of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8331 et seq.).

(W) Part L of title X of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8351 et seq.).

(X) Part A of title XIII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8621 et seq.).

(Y) Part C of title XIII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8671 et seq.).

(Z) Part B of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11421 et seq.).

(3) CENSUS DETERMINATION.—

(A) IN GENERAL.—Each local educational agency shall conduct a census to determine the number of kindergarten through grade 12 students that are in the school district served by the local educational agency for an academic year.

(B) PRIVATE SCHOOL STUDENTS.—In carrying out subparagraph (A), each local educational agency shall determine the number of private school students described in such paragraph for an academic year on the basis of data the local educational agency determines reliable.

(C) SUBMISSION.—Each local educational agency shall submit the total number of public and private school children described in this paragraph for an academic year to the Secretary not later than March 1 of the academic year.

(D) PENALTY.—If the Secretary determines that a local educational agency has knowingly submitted false information under this subsection for the purpose of gaining additional funds under this section, then the local educational agency shall be fined an amount equal to twice the difference between the amount the local educational agency received under this section, and the correct amount the local educational agency would have received if the agency had submitted accurate information under this subsection.

(4) DETERMINATION OF ALLOTMENTS.—From the total applicable funding available for a fiscal year, the Secretary shall make allotments to each local educational agency in a State in an amount that bears the same relation—

(A) to 50 percent of such total applicable funding as the number of individuals in the school district served by the local educational agency who are aged 5 through 17 bears to the total number of such individuals in all school districts served by all local educational agencies in all States; and

(B) to 50 percent of such total amount as the total amount all local educational agencies in the State are eligible to receive under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) for the fiscal year bears to the total amount all local educational agencies in all States are eligible to receive under such part for the fiscal year.

(5) AUTHORIZED ACTIVITIES.—

(A) IN GENERAL.—A local educational agency receiving an allotment under paragraph (4) shall use the allotted funds for innovative assistance programs described in subparagraph (B).

(B) INNOVATIVE ASSISTANCE.—The innovative assistance programs referred to in subparagraph (A) include—

(i) technology programs related to the implementation of school-based reform programs, including professional development to assist teachers and other school officials regarding how to use effectively such equipment and software;

(ii) programs for the acquisition and use of instructional and educational materials, including library services and materials (including media materials), assessments, reference materials, computer software and hardware for instructional use, and other curricular materials that—

(I) are tied to high academic standards;

(II) will be used to improve student achievement; and

(III) are part of an overall education reform program;

(iii) promising education reform programs, including effective schools and magnet schools;

(iv) programs to improve the higher order thinking skills of disadvantaged elementary school and secondary school students and to prevent students from dropping out of school;

(v) programs to combat illiteracy in the student and adult populations, including parent illiteracy;

(vi) programs to provide for the educational needs of gifted and talented children;

(vii) hiring of teachers or teaching assistants to decrease a school, school district, or statewide student-to-teacher ratio; and

(viii) school improvement programs or activities described in sections 1116 and 1117 of the Elementary and Secondary Education Act of 1965.

(6) ACCOUNTABILITY.—

(A) LOCAL EDUCATIONAL AGENCY.—A local educational agency that receives funds under this section in any fiscal year shall make available for review by parents, community members, the State educational agency and the Department of Education—

(i) a proposed budget regarding how such funds shall be used; and

(ii) an accounting of the actual use of such funds at the end of the fiscal year of the local educational agency.

(B) SCHOOL.—Each school receiving assistance under this section in any fiscal year shall prepare and submit to the Secretary and make available to the public a detailed plan that outlines—

(i) clear academic performance objectives for students at the school;

(ii) a timetable for improving the academic performance of the students; and

(iii) methods for officially evaluating and measuring the academic growth or progress of the students.

(b) DIRECT AWARDS OF PART A OF TITLE I FUNDING.—

(1) IN GENERAL.—Notwithstanding any other provision of law and subject to paragraph (3), the Secretary shall award the total amount of funds appropriated to carry out part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) for a fiscal year directly to local educational agencies in accordance with paragraph (2) to enable the local educational agencies to support programs or activities, for kindergarten through grade 12 students, that the local educational agencies deem appropriate.

(2) ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—The Secretary shall make awards under this section for a fiscal year only to local educational agencies that are eligible for assistance under part A of title I of the Elementary and Secondary Education Act of 1965 for the fiscal year.

(3) AMOUNT.—Each local educational agency shall receive an amount awarded under this subsection for a fiscal year equal to the amount the local educational agency is eligible to receive under part A of title I of the Elementary and Secondary Education Act of 1965 for the fiscal year.

TITLE II—PROHIBITION REGARDING FUNDING FOR DEVELOPING OR IMPLEMENTING NATIONAL EDUCATION STANDARDS

SEC. 201. PROHIBITION REGARDING FUNDING FOR DEVELOPING OR IMPLEMENTING NATIONAL EDUCATION STANDARDS.

No Federal funds may be obligated or expended to develop or implement national education standards.

TITLE III—TROOPS-TO-TEACHERS PROGRAM

SEC. 301. SHORT TITLE.

This title may be cited as the ''Troops-to-Teachers Program Improvement Act of 1999''.

SEC. 302. IMPROVEMENT AND TRANSFER OF JURISDICTION OF TROOPS-TO-TEACHERS PROGRAM.

(a) RECODIFICATION, IMPROVEMENT, AND TRANSFER OF PROGRAM.—(1) Section 1151 of title 10, United States Code, is amended to read as follows:

''§ 1151. Assistance to certain separated or retired members to obtain certification and employment as teachers

''(a) PROGRAM AUTHORIZED.—The Secretary of Education, in consultation with the Secretary of Defense and the Secretary of Transportation with respect to the Coast Guard, may carry out a program—

''(1) to assist eligible members of the armed forces after their discharge or release, or retirement, from active duty to obtain certification or licensure as elementary or secondary school teachers or as vocational or technical teachers; and

''(2) to facilitate the employment of such members by local educational agencies identified under subsection (b)(1).

''(b) IDENTIFICATION OF LOCAL EDUCATIONAL AGENCIES AND STATES.—(1)(A) In carrying out the program authorized by subsection (a), the Secretary of Education shall periodically identify local educational agencies that—

''(i) are receiving grants under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) as a result of having within their jurisdictions concentrations of children from low-income families; or

''(ii) are experiencing a shortage of qualified teachers, in particular a shortage of science, mathematics, reading, special education, or vocational or technical teachers.

''(B) The Secretary may identify local educational agencies under subparagraph (A) through surveys conducted for that purpose or by utilizing information on local educational agencies that is available to the Secretary from other sources.

''(2) In carrying out the program, the Secretary shall also conduct a survey of States to identify those States that have alternative certification or licensure requirements for teachers, including those States that grant credit for service in the armed forces toward satisfying certification or licensure requirements for teachers.

''(c) ELIGIBLE MEMBERS.—(1) The following members shall be eligible for selection to participate in the program:

''(A) Any member who—

''(i) during the period beginning on October 1, 1990, and ending on September 30, 1999, was involuntarily discharged or released from active duty for purposes of a reduction of force after six or more years of continuous active duty immediately before the discharge or release; and

''(ii) satisfies such other criteria for selection as the Secretary of Education, in consultation with the Secretary of Defense and

the Secretary of Transportation, may prescribe.

''(B) Any member—

''(i) who, on or after October 1, 1999—

''(I) is retired for length of service with at least 20 years of active service computed under section 3925, 3926, 8925, or 8926 of this title or for purposes of chapter 571 of this title; or

''(II) is retired under section 1201 or 1204 of this title;

''(ii) who—

''(I) in the case of a member applying for assistance for placement as an elementary or secondary school teacher, has received a baccalaureate or advanced degree from an accredited institution of higher education; or

''(II) in the case of a member applying for assistance for placement as a vocational or technical teacher—

''(aa) has received the equivalent of one year of college from an accredited institution of higher education and has 10 or more years of military experience in a vocational or technical field; or

''(bb) otherwise meets the certification or licensure requirements for a vocational or technical teacher in the State in which such member seeks assistance for placement under the program; and

''(iii) who satisfies the criteria prescribed under subparagraph (A)(ii).

''(2) A member who is discharged or released from active duty, or retires from service, under other than honorable conditions shall not be eligible to participate in the program.

''(d) INFORMATION REGARDING PROGRAM.—(1) The Secretary of Education, in consultation with the Secretary of Defense and the Secretary of Transportation, shall provide information regarding the program, and make applications for the program available, to members as part of preseparation counseling provided under section 1142 of this title.

''(2) The information provided to members shall—

''(A) indicate the local educational agencies identified under subsection (b)(1); and

''(B) identify those States surveyed under subsection (b)(2) that have alternative certification or licensure requirements for teachers, including those States that grant credit for service in the armed forces toward satisfying such requirements.

''(e) SELECTION OF PARTICIPANTS.—(1)(A) Selection of members to participate in the program shall be made on the basis of applications submitted to the Secretary of Education on a timely basis. An application shall be in such form and contain such information as the Secretary may require.

''(B) An application shall be considered to be submitted on a timely basis if the application is submitted as follows:

''(i) In the case of an applicant who is eligible under subsection (c)(1)(A), not later than September 30, 2003.

''(ii) In the case of an applicant who is eligible under subsection (c)(1)(B), not later than four years after the date of the retirement of the applicant from active duty.

''(2) In selecting participants to receive assistance for placement as elementary or secondary school teachers or vocational or technical teachers, the Secretary shall give priority to members who—

''(A) have educational or military experience in science, mathematics, reading, special education, or vocational or technical subjects and agree to seek employment as science, mathematics, reading, or special education teachers in elementary or secondary schools or in other schools under the jurisdiction of a local educational agency; or

''(B) have educational or military experience in another subject area identified by the Secretary, in consultation with the National Governors Association, as important for national educational objectives and agree to seek employment in that subject area in elementary or secondary schools.

''(3) The Secretary may not select a member to participate in the program unless the Secretary has sufficient appropriations for the program available at the time of the selection to satisfy the obligations to be incurred by the United States under subsection (g) with respect to that member.

''(f) AGREEMENT.—A member selected to participate in the program shall be required to enter into an agreement with the Secretary of Education in which the member agrees—

''(1) to obtain, within such time as the Secretary may require, certification or licensure as an elementary or secondary school teacher or vocational or technical teacher; and

''(2) to accept an offer of full-time employment as an elementary or secondary school teacher or vocational or technical teacher for not less than four school years with a local educational agency identified under subparagraph (A) or (B) of subsection (b)(1), to begin the school year after obtaining that certification or licensure.

''(g) STIPEND AND BONUS FOR PARTICIPANTS.—(1)(A) Subject to subparagraph (B), the Secretary of Education shall pay to each participant in the program a stipend in an amount equal to $5,000.

''(B) The total number of stipends that may be paid under this paragraph in any fiscal year may not exceed 3,000.

''(2)(A) Subject to subparagraph (B), the Secretary may, in lieu of paying a stipend under paragraph (1), pay a bonus of $10,000 to each participant in the program who agrees under subsection (f) to accept full-time employment as an elementary or secondary school teacher or vocational or technical teacher for not less than four years in a high need school.

''(B) The total number of bonuses that may be paid under this paragraph in any fiscal year may not exceed 1,000.

''(C) In this paragraph, the term 'high need school' means an elementary school or secondary school that meets one or more of the following criteria:

''(i) A school with a drop out rate that exceeds the national average school drop out rate.

''(ii) A school having a large percentage of students (as determined by the Secretary in consultation with the National Assessment Governing Board) who speak English as a second language.

''(iii) A school having a large percentage of students (as so determined) who are at risk of educational failure by reason of limited proficiency in English, poverty, race, geographic location, or economic circumstances.

''(iv) A school at least one-half of whose students are from families with an income below the poverty line (as that term is defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.

''(v) A school with a large percentage of students (as so determined) who qualify for assistance under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.).

''(vi) A school located on an Indian reservation (as that term is defined in section 403(9) of the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3202(9)).

''(vii) A school located in a rural area.

''(viii) A school meeting any other criteria established by the Secretary in consultation with the National Governors Association.

''(3) Stipends and bonuses paid under this subsection shall be taken into account in determining the eligibility of the participant concerned for Federal student financial assistance provided under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).

''(h) REIMBURSEMENT UNDER CERTAIN CIRCUMSTANCES.—(1) If a participant in the program fails to obtain teacher certification or licensure or employment as an elementary or secondary school teacher or vocational or technical teacher as required under the agreement or voluntarily leaves, or is terminated for cause, from the employment during the four years of required service, the participant shall be required to reimburse the Secretary of Education for any stipend paid to the participant under subsection (g)(1) in an amount that bears the same ratio to the amount of the stipend as the unserved portion of required service bears to the four years of required service.

''(2) If a participant in the program who is paid a bonus under subsection (g)(2) fails to obtain employment for which such bonus was paid, or voluntarily leaves or is terminated for cause from the employment during the four years of required service, the participant shall be required to reimburse the Secretary for any bonus paid to the participant under that subsection in an amount that bears the same ratio to the amount of the bonus as the unserved portion of required service bears to the four years of required service.

''(3)(A) The obligation to reimburse the Secretary under this subsection is, for all purposes, a debt owing the United States.

''(B) A discharge in bankruptcy under title 11 shall not release a participant from the obligation to reimburse the Secretary.

''(C) Any amount owed by a participant under paragraph (1) or (2) shall bear interest at the rate equal to the highest rate being paid by the United States on the day on which the reimbursement is determined to be due for securities having maturities of ninety days or less and shall accrue from the day on which the participant is first notified of the amount due.

''(i) EXCEPTIONS TO REIMBURSEMENT PROVISIONS.—(1) A participant in the program shall not be considered to be in violation of an agreement entered into under subsection (f) during any period in which the participant—

''(A) is pursuing a full-time course of study related to the field of teaching at an eligible institution;

''(B) is serving on active duty as a member of the armed forces;

''(C) is temporarily totally disabled for a period of time not to exceed three years as established by sworn affidavit of a qualified physician;

''(D) is unable to secure employment for a period not to exceed 12 months by reason of the care required by a spouse who is disabled;

''(E) is seeking and unable to find full-time employment as a teacher in an elementary or secondary school or as a vocational or technical teacher for a single period not to exceed 27 months; or

''(F) satisfies the provisions of additional reimbursement exceptions that may be prescribed by the Secretary of Education.

''(2) A participant shall be excused from reimbursement under subsection (h) if the participant becomes permanently totally disabled as established by sworn affidavit of a qualified physician. The Secretary may also waive reimbursement in cases of extreme hardship to the participant, as determined

by the Secretary in consultation with the Secretary of Defense or the Secretary of Transportation, as the case may be.

''(j) RELATIONSHIP TO EDUCATIONAL ASSISTANCE UNDER MONTGOMERY GI BILL.—The receipt by a participant in the program of any assistance under the program shall not reduce or otherwise affect the entitlement of the participant to any benefits under chapter 30 of title 38 or chapter 1606 of this title.

''(k) DISCHARGE OF STATE ACTIVITIES THROUGH CONSORTIA OF STATES.—The Secretary of Education may permit States participating in the program authorized by this section to carry out activities authorized for such States under this section through one or more consortia of such States.

''(*l*) ASSISTANCE TO STATES IN ACTIVITIES UNDER PROGRAM.—(1) Subject to paragraph (2), the Secretary of Education may make grants to States participating in the program authorized by this section, or to consortia of such States, in order to permit such States or consortia of States to operate offices for purposes of recruiting eligible members for participation in the program and facilitating the employment of participants in the program in schools in such States or consortia of States.

''(2) The total amount of grants under paragraph (1) in any fiscal year may not exceed $4,000,000.

''(m) LIMITATION ON USE OF FUNDS FOR MANAGEMENT INFRASTRUCTURE.—The Secretary of Education may utilize not more than five percent of the funds available to carry out the program authorized by this section for a fiscal year for purposes of establishing and maintaining the management infrastructure necessary to support the program.

''(n) DEFINITIONS.—In this section:

''(1) The term 'State' includes the District of Columbia, American Samoa, the Federated States of Micronesia, Guam, the Republic of the Marshall Islands, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, the Republic of Palau, and the United States Virgin Islands.

''(2) The term 'alternative certification or licensure requirements' means State or local teacher certification or licensure requirements that permit a demonstrated competence in appropriate subject areas gained in careers outside of education to be substituted for traditional teacher training course work.''.

(2) The table of sections at the beginning of chapter 58 of such title is amended by striking the item relating to section 1151 and inserting the following new item:

''1151. Assistance to certain separated or retired members to obtain certification and employment as teachers.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1999.

(c) TRANSFER OF JURISDICTION OVER CURRENT PROGRAM.—(1) The Secretary of Defense, Secretary of Transportation, and Secretary of Education shall provide for the transfer to the Secretary of Education of any on-going functions and responsibilities of the Secretary of Defense and the Secretary of Transportation with respect the program authorized by section 1151 of title 10, United States Code, for the period beginning on October 23, 1992, and ending on September 30, 1999.

(2) The Secretaries shall complete the transfer under paragraph (1) not later than October 1, 1999.

(d) REPORTS.—(1) Not later than March 31, 2002, the Secretary of Education and the Comptroller General shall each submit to Congress a report on the effectiveness of the program authorized by section 1151 of title 10, United States Code (as amended by subsection (a)), in the recruitment and retention of qualified personnel by local educational agencies identified under subsection (b)(1) of such section 1151 (as so amended).

(2) The report under paragraph (1) shall include information on the following:

(A) The number of participants in the program.

(B) The schools in which such participants are employed.

(C) The grade levels at which such participants teach.

(D) The subject matters taught by such participants.

(E) The effectiveness of the teaching of such participants, as indicated by any relevant test scores of the students of such participants.

(F) The extent of any academic improvement in the schools in which such participants teach by reason of their teaching.

(G) The rates of retention of such participants by the local educational agencies employing such participants.

(H) The effect of any stipends or bonuses under subsection (g) of such section 1151 (as so amended) in enhancing participation in the program or in enhancing recruitment or retention of participants in the program by the local educational agencies employing such participants.

(I) Such other matters as the Secretary or the Comptroller General, as the case may be, considers appropriate.

(3) The report of the Comptroller General under paragraph (1) shall also include any recommendations of the Comptroller General as to means of improving the program, including means of enhancing the recruitment and retention of participants in the program.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Department of Education $25,000,000 for each of fiscal years 2000 through 2004 for purposes of carrying out the program authorized by section 1151 of title 10, United States Code (as amended by subsection (a)).

TITLE IV—ENGLISH PLUS AND MULTILINGUALISM

SEC. 401. ENGLISH PLUS.

(a) FINDINGS.—Congress makes the following findings:

(1) Immigrants to the United States have powerful incentives to learn English in order to fully participate in American society and the Nation's economy, and 90 percent of all immigrant families become fluent in English within the second generation.

(2) A common language promotes unity among citizens, and fosters greater communication.

(3) The reality of a global economy is an ever-present international development that is fostered by trade.

(4) The United States is well postured for the global economy and international development with its diverse population and rich heritage of cultures and languages from around the world.

(5) Foreign language skills are a tremendous resource to the United States and enhance American competitiveness in the global economy.

(6) It is clearly in the interest of the United States to encourage educational opportunities for all citizens and to take steps to realize the opportunities.

(7) Many American Indian languages are preserved, encouraged, and utilized, as the languages were during World War II when the Navajo Code Talkers created a code that could not be broken by the Japanese or the Germans, for example.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) our Nation must support literacy programs, including programs designed to teach English, as well as those dedicated to helping Americans learn and maintain languages in addition to English;

(2) our Nation must recognize the importance of English as the unifying language of the United States;

(3) as a Nation we must support and encourage Americans of every age to master English in order to succeed in American society and ensure a productive workforce;

(4) our Nation must recognize that a skilled labor force is crucial to United States competitiveness in a global economy, and the ability to speak languages in addition to English is a significant skill; and

(5) our Nation must recognize the benefits, both on an individual and a national basis, of developing the Nation's linguistic resources.

SEC. 402. MULTILINGUALISM STUDY.

(a) FINDINGS.—Congress finds that—

(1) even though all residents of the United States should be proficient in English, without regard to their country of birth, it is also of vital importance to the competitiveness of the United States that those residents be encouraged to learn other languages; and

(2) education is the primary responsibility of State and local governments and communities, and the governments and communities are responsible for developing policies in the area of education.

(b) RESIDENT OF THE UNITED STATES DEFINED.—In this section, the term ''resident of the United States'' means an individual who resides in the United States, other than an alien who is not lawfully present in the United States.

(c) STUDY.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Comptroller General shall conduct a study of multilingualism in the United States in accordance with this section.

(2) REQUIREMENTS.—

(A) IN GENERAL.—The study conducted under this section shall determine—

(i) the percentage of residents in the United States who are proficient in English and at least 1 other language;

(ii) the predominant language other than English in which residents referred to in clause (i) are proficient;

(iii) the percentage of the residents described in clause (i) who were born in a foreign country;

(iv) the percentage of the residents described in clause (i) who were born in the United States;

(v) the percentage of the residents described in clause (iv) who are second-generation residents of the United States; and

(vi) the percentage of the residents described in clause (iv) who are third-generation residents of the United States.

(B) AGE-SPECIFIC CATEGORIES.—The study under this section shall, with respect to the residents described in subparagraph (A)(i), determine the number of those residents in each of the following categories:

(i) Residents who have not attained the age of 12.

(ii) Residents who have attained the age of 12, but have not attained the age of 18.

(iii) Residents who have attained the age of 18, but have not attained the age of 50.

(iv) Residents who have attained the age of 50.

(C) FEDERAL PROGRAMS.—In conducting the study under this section, the Comptroller General shall establish a list of each Federal program that encourages multilingualism with respect to any category of residents described in subparagraph (B).

(D) COMPARISONS.—In conducting the study under this section, the Comptroller General shall compare the multilingual population described in subparagraph (A) with the multilingual populations of foreign countries—

(i) in the Western Hemisphere; and

(ii) in Asia.

(d) REPORT.—Upon completion of the study under this section, the Comptroller General shall prepare, and submit to Congress, a report that contains the results of the study conducted under this section, and such findings and recommendations as the Comptroller General determines to be appropriate.

TITLE V—EDUCATIONAL OPPORTUNITIES FOR DISADVANTAGED CHILDREN

SEC. 501. PURPOSES.

The purposes of this title are—

(1) to assist and encourage States and localities to—

(A) give children from low-income families more of the same choices of all elementary and secondary schools and other academic programs that children from wealthier families already have;

(B) improve schools and other academic programs by giving low-income parents increased consumer power to choose the schools and programs that the parents determine best fit the needs of their children; and

(C) more fully engage low-income parents in their children's schooling; and

(2) to demonstrate, through a competitive discretionary grant program, the effects of State and local programs that give middle- and low-income families more of the same choices of all schools, public, private or religious, that wealthier families have.

SEC. 502. AUTHORIZATION OF APPROPRIATIONS; PROGRAM AUTHORITY.

(a) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this title, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2001 through 2003.

(b) PROGRAM AUTHORITY.—The Secretary is authorized to award grants to not more than 10 States or localities, on a competitive basis, to enable the States or localities to carry out educational choice programs in accordance with this title.

SEC. 503. ELIGIBILITY.

A State or locality is eligible for a grant under this title if—

(1) the State or locality has taken significant steps to provide a choice of schools to families with school children residing in the program area described in the application submitted under section 506, including families who are not eligible for scholarships under this title;

(2) during the year for which assistance is sought, the State or locality provides assurances in the application submitted under section 506 that if awarded a grant under this title such State or locality will provide scholarships to parents of eligible children that may be redeemed for elementary schools or secondary education for their children at a broad variety of public and private elementary schools and secondary schools, including religious schools, if any, serving the area;

(3) the State or locality agrees to match 50 percent of the Federal funds provided for the scholarships; and

(4) the State or locality allows lawfully operating public and private elementary schools and secondary schools, including religious schools, if any, serving the area to participate in the program.

SEC. 504. SCHOLARSHIPS.

(a) SCHOLARSHIP AWARDS.—With funds awarded under this title, each State or locality awarded a grant under this title shall provide scholarships to the parents of eligible children, in accordance with section 505.

(b) SCHOLARSHIP VALUE.—The value of each scholarship shall be the sum of—

(1) $2,000 from funds provided under this title;

(2) $1,000 in matching funds from the State or locality; and

(3) an additional amount, if any, of State, local, or nongovernmental funds.

(c) TAX EXEMPTION.—Scholarships awarded under this title shall not be considered income of the parents for Federal income tax purposes or for determining eligibility for any other Federal program.

SEC. 505. ELIGIBLE CHILDREN; AWARD RULES.

(a) ELIGIBLE CHILD.—In this title the term ''eligible child'' means a child who—

(1) resides in the program area described in the application submitted under section 506;

(2) will attend a public or private elementary school or secondary school that is participating in the program; and

(3) subject to subsection (b)(1)(C), is from a low-income family, as determined by the State or locality in accordance with regulations of the Secretary, except that the maximum family income for eligibility under this title shall not exceed the State or national median family income adjusted for family size, whichever is higher, as determined by the Secretary, in consultation with the Bureau of the Census, on the basis of the most recent satisfactory data available.

(b) AWARD RULES.—

(1) CONTINUING ELIGIBILITY.—Each State or locality receiving a grant under this title shall provide a scholarship in each year of its program to each child who received a scholarship during the previous year of the program, unless—

(A) the child no longer resides in the program area;

(B) the child no longer attends school;

(C) the child's family income exceeds, by 20 percent or more, the maximum family income of families who received scholarships in the preceding year; or

(D) the child is expelled or convicted of a felony, including felonious drug possession, possession of a weapon on school grounds, or violent acts against other students or a member of the school's faculty.

(2) PRIORITY.—If the amount of the grant provided under this title is not sufficient to provide a scholarship to each eligible child from a family that meets the requirements of subsection (a)(3), the State or locality shall provide scholarships to eligible children from the lowest income families.

SEC. 506. APPLICATIONS.

(a) APPLICATION.—Each State or locality that wishes to receive a grant under this title shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require.

(b) CONTENTS.—Each such application shall contain—

(1) a description of the program area;

(2) an economic profile of children residing in the program area, in terms of family income and poverty status;

(3) the family income range of children who will be eligible to participate in the proposed program, consistent with section 505(a)(3), and a description of the applicant's method for identifying children who fall within that range;

(4) an estimate of the number of children, within the income range specified in paragraph (3), who will be eligible to receive scholarships under the program;

(5) information demonstrating that the applicant's proposed program complies with the requirements of section 503 and with the other requirements of this title;

(6) a description of the procedures the applicant has used, including timely and meaningful consultation with private school officials—

(A) to encourage public and private elementary schools and secondary schools to participate in the program; and

(B) to ensure maximum educational choices for the parents of eligible children and for other children residing in the program area;

(7) an identification of the public, private, and religious elementary schools and secondary schools that are eligible and have chosen to participate in the program;

(8) a description of how the applicant will inform children and their parents of the program and of the choices available to the parents under the program, including the availability of supplementary academic services under section 509(2);

(9) a description of the procedures to be used to provide scholarships to parents and to enable parents to use such scholarships, such as the issuance of checks payable to schools;

(10) a description of the procedures by which a school will make a pro rata refund to the Department of Education for any participating child who, before completing 50 percent of the school attendance period for which the scholarship was provided—

(A) is released or expelled from the school; or

(B) withdraws from school for any reason;

(11) a description of procedures the applicant will use to—

(A) determine a child's continuing eligibility to participate in the program; and

(B) bring new children into the program;

(12) an assurance that the applicant will cooperate in carrying out the national evaluation described in section 511;

(13) an assurance that the applicant will maintain such records relating to the program as the Secretary may require and will comply with the Secretary's reasonable requests for information about the program;

(14) a description of State or local funds (including tax benefits) and nongovernmental funds, that will be available under section 504(b)(2) to supplement scholarship funds provided under this title; and

(16) such other assurance and information as the Secretary may require.

(c) REVISIONS.—Each such application shall be updated annually as may be needed to reflect revised conditions.

SEC. 507. APPROVAL OF PROGRAMS.

(a) SELECTION.—From applications received each year the Secretary shall select not more than 10 scholarship programs on the basis of—

(1) the number and variety of educational choices that are available under the program to families of eligible children;

(2) the extent to which educational choices among public, private, and religious schools are available to all families in the program area, including families that are not eligible for scholarships under this title;

(3) the proportion of children who will participate in the program who are from families at or below the poverty line;

(4) the applicant's financial support of the program, including the amount of State, local, and nongovernmental funds that will be provided to match Federal funds, including not only direct expenditures for scholarships, but also other economic incentives provided to families participating in the program, such as a tax relief program; and

(5) other criteria established by the Secretary.

(b) GEOGRAPHIC DISTRIBUTION.—The Secretary shall ensure that, to the extent feasible, grants are awarded for programs in urban and rural areas and in a variety of geographic areas throughout the Nation.

(c) CONSIDERATION.—In considering the factor described in subsection (a)(4), the Secretary shall consider differences in local conditions.

SEC. 508. AMOUNTS AND LENGTH OF GRANTS.

(a) AWARDS.—The Secretary shall award not more than 10 grants annually taking into consideration the availability of appropriations, the number and quality of applications, and other factors related to the purposes of this title that the Secretary determines are appropriate.

(b) RENEWAL.—Each grant under this title shall be awarded for a period of not more than 3 years.

SEC. 509. USES OF FUNDS.

The Federal portion of any scholarship awarded under this title shall be used as follows:

(1) FIRST.—First, for—

(A) the payment of tuition and fees at the school selected by the parents of the child for whom the scholarship was provided; and

(B) the reasonable costs of the child's transportation to the school, if the school is not in the school district to which the child would be assigned in the absence of a program under this title.

(2) SECOND.—If the parents so choose, to obtain supplementary academic services for the child, at a cost of not more than $500, from any provider chosen by the parents, that the State or locality, in accordance with regulations of the Secretary, determines is capable of providing such services and has an appropriate refund policy.

(3) LASTLY.—Any funds that remain after the application of paragraphs (1) and (2) shall be used—

(A) for educational programs that help eligible children achieve high levels of academic excellence in the school attended by the eligible children for whom a scholarship was provided, if the eligible children attend a public school; or

(B) by the State or locality for additional scholarships in the year or the succeeding year of its program, in accordance with this title, if the child attends a private school.

SEC. 510. EFFECT OF PROGRAMS.

(a) TITLE I.—Notwithstanding any other provision of law, a local educational agency that, in the absence of an educational choice program that is funded under this title, would provide services to a participating eligible child under part A of title I of the Elementary and Secondary Education Act of 1965, shall provide such services to such child.

(b) INDIVIDUALS WITH DISABILITIES.—Nothing in this title shall be construed to affect the requirements of part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.).

(c) AID.—

(1) IN GENERAL.—Scholarships under this title are to aid families, not institutions. A parent's expenditure of scholarship funds at a school or for supplementary academic services shall not constitute Federal financial aid or assistance to that school or to the provider of supplementary academic services.

(2) SUPPLEMENTARY ACADEMIC SERVICES.—

(A) IN GENERAL.—Notwithstanding paragraph (1), a school or provider of supplementary academic services that receives scholarship funds under this title shall, as a condition of participation under this title, comply with the antidiscrimination provisions of section 601 of title VI of the Civil Rights Act of 1964 (42 U.S.C. 1681) and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

(B) REGULATIONS.—The Secretary shall promulgate new regulations to implement the provisions of subparagraph (A), taking into account the purposes of this title and the nature, variety, and missions of schools and providers that may participate in providing services to children under this title.

(d) OTHER FEDERAL FUNDS.—No Federal, State, or local agency may, in any year, take into account Federal funds provided to a State or locality or to the parents of any child under this title in determining whether to provide any other funds from Federal, State, or local resources, or in determining the amount of such assistance, to such State or locality or to a school attended by such child.

(e) NO DISCRETION.—Nothing in this title shall be construed to authorize the Secretary to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution or school participating in a program under this title.

SEC. 511. NATIONAL EVALUATION.

The Inspector General of the Department of Education shall conduct a national evaluation of the program authorized by this title. Such evaluation shall, at a minimum—

(1) assess the implementation of scholarship programs assisted under this title and their effect on participants, schools, and communities in the program area, including parental involvement in, and satisfaction with, the program and their children's education;

(2) compare the educational achievement of participating eligible children with the educational achievement of similar non-participating children before, during, and after the program; and

(3) compare—

(A) the educational achievement of eligible children who use scholarships to attend schools other than the schools the children would attend in the absence of the program; with

(B) the educational achievement of children who attend the schools the children would attend in the absence of the program.

SEC. 512. ENFORCEMENT.

(a) REGULATIONS.—The Secretary shall promulgate regulations to enforce the provisions of this title.

(b) PRIVATE CAUSE.—No provision or requirement of this title shall be enforced through a private cause of action.

SEC. 513. DEFINITIONS.

In this title—

(1) the term ''locality'' means—

(A) a unit of general purpose local government, such as a city, township, or village; or

(B) a local educational agency; and

(2) the term ''State'' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

TITLE VI—TAX PROVISIONS

SEC. 601. CREDIT FOR CONTRIBUTIONS TO SCHOOLS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by inserting after section 25A the following:

''SEC. 25B. CREDIT FOR CONTRIBUTIONS TO SCHOOLS.

''(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the qualified charitable contributions of the taxpayer for the taxable year.

''(b) MAXIMUM CREDIT.—The credit allowed by subsection (a) for any taxable year shall not exceed $500 ($250, in the case of a married individual filing a separate return).

''(c) QUALIFIED CHARITABLE CONTRIBUTION.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified charitable contribution' means, with respect to any taxable year, the amount allowable as a deduction under section 170 (determined without regard to subsection (e)(1)) for cash contributions to a school.

''(2) SCHOOL.—The term 'school' means any school which provides elementary education or secondary education (through grade 12), as determined under State law.

''(d) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under this chapter for any contribution for which credit is allowed under this section.

''(e) ELECTION TO HAVE CREDIT NOT APPLY.—A taxpayer may elect to have this section not apply for any taxable year.''

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 25A the following:

''Sec. 25B. Credit for contributions to schools.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

SEC. 602. INCREASE IN ANNUAL CONTRIBUTION LIMIT FOR EDUCATION INDIVIDUAL RETIREMENT ACCOUNTS.

(a) IN GENERAL.—Section 530(b)(1)(A)(iii) of the Internal Revenue Code of 1986 (defining education individual retirement account) is amended by striking ''$500'' and inserting ''$1,000''.

(b) CONFORMING AMENDMENT.—Section 4973(e)(1)(A) of such Code is amended by striking ''$500'' and inserting ''$1,000''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

TITLE VII—DEVELOPING BETTER EDUCATION TOOLS

SEC. 701. EDUCATIONAL TOOLS FOR UNDERSERVED STUDENTS.

(a) FINDINGS.—Congress makes the following findings:

(1) Limited data exists regarding Native American, Asian American and many other minority students.

(2) The limited data available regarding these students demonstrates potentially severe educational problems among Native American students and a decline in performance among Asian American students.

(b) STUDY AND DATA.—The Comptroller General shall conduct a study and collect data regarding the education of minority students, including Native American students, Asian American students, and all other students who are often combined in statistical data under the category of other, in order to provide more extensive and reliable data regarding the students and to improve the academic preparation of the students.

(c) MATTERS STUDIED.—The study referred to in subsection (a) shall examine and compile information regarding—

(1) the environment of the students;

(2) the academic achievement scores in reading, mathematics, and science of the students;

(3) the postsecondary education of the students;

(4) the environment and education of the members of the students' families; and

(5) the parental involvement in the education of the students.

(d) RECOMMENDATIONS.—The Comptroller General shall develop recommendations regarding the development and implementation of strategies to meet the unique educational needs of the students described in subsection (a).

(e) REPORT.—

(1) IN GENERAL.—The Comptroller General shall prepare a report regarding the matters studied, the information collected, and the

recommendations developed under this section.

(2) DISTRIBUTION.—The Comptroller General shall distribute the report described in paragraph (1) to each local educational agency and State educational agency in the United States, the Secretary, and Congress.

(f) FUNDING.—The Secretary shall make available to the Comptroller General, from any funds available to the Secretary for salaries and expenses at the Department of Education, such sums as the Comptroller General determines necessary to carry out this section.

SEC. 702. TEACHER TRAINING.

(a) FINDINGS.—Congress finds that too often inexperienced elementary school and secondary school teachers or teachers with low levels of education are found in schools predominately serving low-income students.

(b) STUDY.—The Comptroller General shall conduct a study to determine whether requiring teacher training in a specific subject matter or at least a minor degree in a subject matter (such as mathematics, science, or English results in improved student performance.

SEC. 703. PUTTING THE BEST TEACHERS IN THE CLASSROOM.

It is the sense of the Senate that—

(1) the individual States should evaluate their teachers on the basis of demonstrated ability, including tests of subject matter knowledge, teaching knowledge, and teaching skill;

(2) States in conjunction with the various local education agencies should develop their own methods of testing their teachers and other instructional staff with respect to the specific subjects taught by the teachers and staff, and should administer the test every 4 years to individual teachers;

(3) each local educational agency should give serious consideration to using a portion of the funds made available under section 101 to develop and implement a method for evaluating each individual teacher's ability to provide the appropriate instruction in the classroom; and

(4) each local educational agency is encouraged to give consideration to providing monetary rewards to teachers by developing a compensation system that supports teachers who become increasingly expert in a subject area, are proficient in meeting the needs of students and schools, and demonstrate high levels of performance measured against professional teaching standards, and that will encourage teachers to continue to learn needed skills and broaden the teachers' expertise, thereby enhancing education for all students.

TITLE VIII—EMPOWERING STUDENTS

SEC. 801. EMPOWERING STUDENTS.

The Secretary, not later than October 1, 2004, shall gradually reduce the sum of the costs for employees and administrative expenses at the Department of Education as of the date of enactment of this Act incrementally each year until the sum of the costs for employees and administrative costs are reduced by 35 percent.

ADDITIONAL COSPONSORS

S. 98

At the request of Mr. MCCAIN, the names of the Senator from Arkansas (Mr. HUTCHINSON), the Senator from Nebraska (Mr. KERREY), and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 98, a bill to authorize appropriations for the Surface Transportation Board for fiscal years 1999, 2000, 2001, and 2002, and for other purposes.

S. 288

At the request of Mr. JEFFORDS, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 288, a bill to amend the Internal Revenue Code of 1986 to exclude from income certain amounts received under the National Health Service Corps Scholarship Program and F. Edward Hebert Armed Forces Health Professions Scholarship and Financial Assistance Program.

S. 296

At the request of Mr. FRIST, the names of the Senator from Pennsylvania (Mr. SANTORUM) and the Senator from Idaho (Mr. CRAPO) were added as cosponsors of S. 296, a bill to provide for continuation of the Federal research investment in a fiscally sustainable way, and for other purposes.

S. 322

At the request of Mr. CAMPBELL, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 322, a bill to amend title 4, United States Code, to add the Martin Luther King Jr. holiday to the list of days on which the flag should especially be displayed.

S. 335

At the request of Ms. COLLINS, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 335, a bill to amend chapter 30 of title 39, United States Code, to provide for the nonmailability of certain deceptive matter relating to games of chance, administrative procedures, orders, and civil penalties relating to such matter, and for other purposes.

S. 364

At the request of Mr. BOND, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 364, a bill to improve certain loan programs of the Small Business Administration, and for other purposes.

S. 368

At the request of Mr. COCHRAN, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. 368, a bill to authorize the minting and issuance of a commemorative coin in honor of the founding of Biloxi, Mississippi.

S. 376

At the request of Mr. BURNS, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 376, a bill to amend the Communications Satellite Act of 1962 to promote competition and privatization in satellite communications, and for other purposes.

S. 427

At the request of Mr. ABRAHAM, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 427, a bill to improve congressional deliberation on proposed Federal private sector mandates, and for other purposes.

S. 428

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 428, a bill to amend the Agricultural Market Transition Act to ensure that producers of all classes of soft white wheat (including club wheat) are permitted to repay marketing assistance loans, or receive loan deficiency payments, for the wheat at the same rate.

S. 429

At the request of Mr. DURBIN, the name of the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 429, a bill to designate 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. 445

At the request of Mr. JEFFORDS, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 445, a bill to amend title XVIII of the Social Security Act to require the Secretary of Veterans Affairs and the Secretary of Health and Human Services to carry out a demonstration project to provide the Department of Veterans Affairs with medicare reimbursement for medicare healthcare services provided to certain medicare-eligible veterans.

S. 446

At the request of Mrs. BOXER, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 446, a bill to provide for the permanent protection of the resources of the United States in the year 2000 and beyond.

S. 459

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 459, a bill to amend the Internal Revenue Code of 1986 to increase the State ceiling on private activity bonds.

At the request of Mr. BREAUX, the names of the Senator from Maine (Ms. SNOWE), the Senator from Idaho (Mr. CRAPO), and the Senator from Idaho (Mr. CRAIG) were added as cosponsors of S. 459, supra.

S. 472

At the request of Mr. GRASSLEY, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 472, a bill to amend title XVIII of the Social Security Act to provide certain medicare beneficiaries with an exemption to the financial limitations imposed on physical, speech-language pathology, and occupational therapy services under part B of the medicare program, and for other purposes.

S. 531

At the request of Mr. ABRAHAM, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 531, a bill to authorize the President to award a gold medal on behalf of the Congress to Rosa Parks in recognition of her contributions to the Nation.

S. 595

At the request of Mr. DOMENICI, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 595, a bill to amend the Internal Revenue Code of 1986 to establish a graduated response to shrinking domestic oil and gas production and surging foreign oil imports, and for other purposes.

S. 597

At the request of Mr. SMITH, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 597, a bill to amend section 922 of chapter 44 of title 28, United States Code, to protect the right of citizens under the Second Amendment to the Constitution of the United States.

S. 608

At the request of Mr. MURKOWSKI, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 608, a bill to amend the Nuclear Waste Policy Act of 1982.

SENATE RESOLUTION 33

At the request of Mr. MCCAIN, the names of the Senator from North Dakota (Mr. DORGAN), the Senator from Mississippi (Mr. COCHRAN), the Senator from Idaho (Mr. CRAPO), the Senator from Nebraska (Mr. HAGEL), the Senator from Vermont (Mr. JEFFORDS), the Senator from Maine (Ms. COLLINS), the Senator from Texas (Mr. GRAMM), and the Senator from South Dakota (Mr. DASCHLE) were added as cosponsors of Senate Resolution 33, a resolution designating May 1999 as ''National Military Appreciation Month.''

SENATE RESOLUTION 54

At the request of Mr. FEINGOLD, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of Senate Resolution 54, a resolution condemning the escalating violence, the gross violation of human rights and attacks against civilians, and the attempt to overthrow a democratically elected government in Sierra Leone.

SENATE RESOLUTION 68

At the request of Mrs. BOXER, the names of the Senator from West Virginia (Mr. ROCKEFELLER), the Senator from Nevada (Mr. REID), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Minnesota (Mr. WELLSTONE), the Senator from Arkansas (Mrs. LINCOLN), and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of Senate Resolution 68, a resolution expressing the sense of the Senate regarding the treatment of women and girls by the Taliban in Afghanistan.

SENATE RESOLUTION 69—TO PROHIBIT THE CONSIDERATION OF RETROACTIVE TAX INCREASES IN THE SENATE

Mr. COVERDELL (for himself, Mr. HAGEL, Mrs. HUTCHISON, Mr. KYL, Mr. INHOFE, and Mr. GRASSLEY) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 69

Resolved,

SECTION 1. RULE OF THE SENATE PROHIBITING CONSIDERATION OF RETROACTIVE TAX INCREASES.

(a) IN GENERAL.—It shall not be in order in the Senate to consider any bill, joint resolution, amendment, motion, or conference report, that includes a retroactive Federal income tax rate increase.

(b) DEFINITION.—In this resolution—

(1) the term ''Federal income tax rate increase'' means any amendment to subsection (a), (b), (c), (d), or (e) of section 1, or to section 11(b) or 55(b), of the Internal Revenue Code of 1986, that imposes a new percentage as a rate of tax and thereby increases the amount of tax imposed by any such section; and

(2) a Federal income tax rate increase is retroactive if it applies to a period beginning prior to the enactment of the provision.

(c) SUPERMAJORITY WAIVER.—

(1) WAIVER.—The point of order in subsection (a) may be waived or suspended only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

(2) APPEALS.—An affirmative vote of three-fifths of the Members, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under subsection (a).

(d) EFFECTIVE DATE.—This resolution takes effect on January 1, 1999.

SENATE RESOLUTION 70—TO AUTHORIZE REPRESENTATION OF SENATE AND MEMBERS OF THE SENATE

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 70

Whereas, in the case of *James E. Pietrangelo, II* v. *United States Senate, et al.*, Case No. 1:99–CV–323, pending in the United States District Court for the Northern District of Ohio, the plaintiff has named the United States Senate and all Members of the Senate as defendants;

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(1), the Senate may direct its counsel to defend the Senate and Members of the Senate in civil actions relating to their official responsibilities: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to represent the Senate and all Members of the Senate in the case of *James E. Pietrangelo, II* v. *United States Senate, et al.*

AMENDMENTS SUBMITTED

EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT FOR FISCAL YEAR 1999

HATCH (AND OTHERS) AMENDMENT NO. 79

(Ordered to lie on the table.)

Mr. HATCH (for himself, Mrs. FEINSTEIN, Mr. THURMOND, Mr. DEWINE, Mr. SESSIONS, and Mr. KENNEDY) submitted an amendment intended to be proposed by them to the bill (S. 544) making emergency supplemental appropriations and rescissions for recovery from natural disasters, and foreign assistance, for the fiscal year ending September 30, 1999, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. . COMPLIANCE WITH ETHICAL STANDARDS FOR FEDERAL PROSECUTORS.

Section 801 of title VIII of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1999 (Public Law 105–277) is amended by striking subsection (c) and inserting the following:

''(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 year after the date of enactment of this Act.''.

STEVENS AMENDMENT NO. 80

Mr. STEVENS proposed an amendment to the bill, S. 544, supra; as follows:

Insert on page 43, after line 15:

''PUBLIC AND INDIAN HOUSING

''HOUSING CERTIFICATE FUND

''(DEFERRAL)

''Of the funds made available under this heading in Public Law 105–276 for use in connection with expiring or terminating section 8 contracts, $350,000,000 shall not become available until October 1, 1999.''.

On page 42, strike beginning with line 10 through the end of line 21.

HUTCHISON AMENDMENT NO. 81

Mrs. HUTCHISON proposed an amendment to the bill, S. 544, supra; as follows:

On page 58, between lines 15 and 16, insert the following:

TITLE ____—RESTRICTIONS ON DEPLOYMENT OF UNITED STATES ARMED FORCES IN KOSOVO

SEC. ____01. SHORT TITLE.

This title may be cited as the ''_____ Act of 1999''.

SEC. ____02. DEFINITION.

In this title, the term ''Yugoslavia'' means the so-called Federal Republic of Yugoslavia (Serbia and Montenegro).

SEC. ____03. FUNDING LIMITATION.

(a) LIMITATION.—None of the funds appropriated or otherwise made available to the Department of Defense, including funds appropriated for fiscal year 1999 and prior fiscal years, may be obligated or expended for any deployment of ground forces of the Armed Forces of the United States to Kosovo unless and until—

(1) the parties to the conflict in Kosovo have signed an agreement for the establishment of peace in Kosovo;

(2) the President has transmitted to Congress the report provided for under section 8115 of Public Law 105–262 (112 Stat. 2327); and

(3) the President has transmitted to the Speaker of the House of Representatives and the President pro tempore of the Senate a report containing—

(A) a certification—

(i) that deployment of the Armed Forces of the United States to Kosovo is in the national security interests of the United States;

(ii) that—

(I) the President will submit to Congress an amended budget for the Department of Defense for fiscal year 2000 not later than 60 days after the commencement of the deployment of the Armed Forces of the United States to Kosovo that includes an amount sufficient for such deployment; and

(II) such amended budget will provide for an increase in the total amount for the major functional budget category 050 (relating to National Defense) for fiscal year 2000 by at least the total amount proposed for the deployment of the Armed Forces of the United States to Kosovo (as compared to the amount provided for fiscal year 2000 for major functional budget category 050 (relating to National Defense) in the budget that the President submitted to Congress February 1, 1999); and

(iii) that—

(I) not later than 120 days after the commencement of the deployment of the Armed Forces of the United States to Kosovo, forces of the Armed Forces of the United States will be withdrawn from on-going military operations in locations where maintaining the current level of the Armed Forces of the United States (as of the date of certification) is no longer considered vital to the national security interests of the United States; and

(II) each such withdrawal will be undertaken only after consultation with the Majority Leader of the Senate, the Minority Leader of the Senate, the Speaker of the House of Representatives, and the Minority Leader of the House of Representatives;

(B) an explanation of the reasons why the deployment of the Armed Forces of the United States to Kosovo is in the national security interests of the United States;

(C) the total number of the United States military personnel that are to be deployed in Kosovo and the number of personnel to be committed to the direct support of the international peacekeeping operation in Kosovo, including ground troops, air support, logistics support, and intelligence support;

(D) the percentage that the total number of personnel of the United States Armed Forces specified in subparagraph (C) bears to the total number of the military personnel of all NATO nations participating in the international peacekeeping operation in Kosovo;

(E) a description of the responsibilities of the United States military force participating in the international peacekeeping operation to enforce any provision of the Kosovo peace agreement; and

(F) a clear identification of the benchmarks for the withdrawal of the Armed Forces of the United States from Kosovo, together with a description of those benchmarks and the estimated dates by which those benchmarks can and will be achieved.

(b) CONSULTATION.—

(1) IN GENERAL.—Prior to the conduct of any air operations by the Armed Forces of the United States against Yugoslavia, the President shall consult with the joint congressional leadership and the chairmen and ranking minority members of the appropriate congressional committees with respect to those operations.

(2) DEFINITIONS.—In this subsection:

(A) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means—

(i) the Committee on Appropriations, the Committee on Armed Services, the Committee on International Relations, and the Permanent Select Committee on Intelligence of the House of Representatives; and

(ii) the Committee on Appropriations, the Committee on Armed Services, the Committee on Foreign Relations, and the Select Committee on Intelligence of the Senate.

(B) JOINT CONGRESSIONAL LEADERSHIP.—The term ''joint congressional leadership'' means—

(i) the Speaker of the House of Representatives and the Majority Leader and the Minority Leader of the House of Representatives; and

(ii) the Majority Leader and the Minority Leader of the Senate.

SEC. ___04. REPORT ON PROGRESS TOWARD MEETING BENCHMARKS.

Thirty days after the date of enactment of this Act, and every 60 days thereafter, the President shall submit to Congress a detailed report on the benchmarks that are established to measure progress and determine the withdrawal of the Armed Forces of the United States from Kosovo. Each report shall include—

(1) a detailed description of the benchmarks for the withdrawal of the Armed Forces from Kosovo;

(2) the objective criteria for evaluating successful achievement of the benchmarks;

(3) an analysis of the progress made in achieving the benchmarks;

(4) a comparison of the current status on achieving the benchmarks with the progress described in the last report submitted under this section;

(5) the specific responsibilities assigned to the implementation force in assisting in the achievement of the benchmarks;

(6) the estimated timetable for achieving the benchmarks; and

(7) the status of plans and preparations for withdrawal of the implementing force once the objective criteria for achieving the benchmarks have been met.

SEC. ___05. STATUTORY CONSTRUCTION.

Nothing in this title restricts the authority of the President to protect the lives of United States citizens.

MCCAIN AMENDMENT NO. 82

Mr. STEVENS (for Mr. MCCAIN) proposed an amendment to the bill, S. 544, supra; as follows:

At the appropriate place, insert the following:

SEC. . EXTENSION OF AVIATION INSURANCE PROGRAM.

Section 44310 of title 49, United States Code, is amended by striking ''March 31, 1999.'' and inserting ''May 31, 1999.''.

GRASSLEY AMENDMENT NO. 83

Mr. STEVENS (for Mr. GRASSLEY) proposed an amendment to the bill, S. 544, supra; as follows:

On page 29, insert after line 10:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF THE SECRETARY

GENERAL DEPARTMENTAL MANAGEMENT

For an additional amount for ''general departmental management'', $1,400,000, to reduce the backlog of pending nursing home appeals before the Department Appeals Board.

On page 42, line 8, strike $3,116,076,000 and insert $3,114,676,000.

On page 42, line 9, strike $164,933,000 and insert $163,533,000.

SHELBY (AND STEVENS) AMENDMENT NO. 84

Mr. STEVENS (for Mr. SHELBY for himself and Mr. STEVENS) proposed an amendment to the bill, S. 544, supra; as follows:

At the appropriate place in the bill, insert:

SEC. . TITLE 49 RECODIFICATION CORRECTION.—Effective December 31, 1998, section 4(k) of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1370), as amended by section 7(a)(3)(D) of the Act of October 31, 1994 (Public Law 103–429, 108 Stat. 4329), is repealed.

BYRD AMENDMENT NO. 85

Mr. STEVENS (for Mr. BYRD) proposed an amendment to the bill, S. 544, supra; as follows:

On page 16, strike beginning with line 12 through page 23, line 8, and insert the following:

EMERGENCY STEEL LOAN GUARANTEE PROGRAM. (a) SHORT TITLE.—This section may be cited as the ''Emergency Steel Loan Guarantee Act of 1999''.

(b) CONGRESSIONAL FINDINGS.—Congress finds that—

(1) the United States steel industry has been severely harmed by a record surge of more than 40,000,000 tons of steel imports into the United States in 1998, caused by the world financial crisis;

(2) this surge in imports resulted in the loss of more than 10,000 steel worker jobs in 1998, and was the imminent cause of 3 bankruptcies by medium-sized steel companies, Acme Steel, Laclede Steel, and Geneva Steel;

(3) the crisis also forced almost all United States steel companies into—

(A) reduced volume, lower prices, and financial losses; and

(B) an inability to obtain credit for continued operations and reinvestment in facilities;

(4) the crisis also has affected the willingness of private banks and investment institutions to make loans to the U.S. steel industry for continued operation and reinvestment in facilities;

(5) these steel bankruptcies, job losses, and financial losses are also having serious negative effects on the tax base of cities, counties, and States, and on the essential health, education, and municipal services that these government entities provide to their citizens; and

(6) a strong steel industry is necessary to the adequate defense preparedness of the United States in order to have sufficient steel available to build the ships, tanks, planes, and armaments necessary for the national defense.

(c) DEFINITIONS.—For purposes of this section—

(1) the term ''Board'' means the Loan Guarantee Board established under subsection (e);

(2) the term ''Program'' means the Emergency Steel Guaranteed Loan Program established under subsection (d); and

(3) the term ''qualified steel company'' means any company that—

(A) is incorporated under the laws of any State;

(B) is engaged in the production and manufacture of a product defined by the American Iron and Steel Institute as a basic steel mill product, including ingots, slab and billets, plates, flat-rolled steel, sections and structural products, bars, rail type products, pipe and tube, and wire rod; and

(C) has experienced layoffs, production losses, or financial losses since the beginning of the steel import crisis, after January 1, 1998.

(d) ESTABLISHMENT OF EMERGENCY STEEL GUARANTEED LOAN PROGRAM.—There is established the Emergency Steel Guaranteed Loan Program, to be administered by the Board, the purpose of which is to provide loan guarantees to qualified steel companies in accordance with this section.

(e) LOAN GUARANTEE BOARD MEMBERSHIP.—There is established a Loan Guarantee Board, which shall be composed of—

(1) the Secretary of Commerce, who shall serve as Chairman of the Board;

(2) the Secretary of Labor; and

(3) the Secretary of the Treasury.

(f) LOAN GUARANTEE PROGRAM.—

(1) AUTHORITY.—The Program may guarantee loans provided to qualified steel companies by private banking and investment institutions in accordance with the procedures, rules, and regulations established by the Board.

(2) TOTAL GUARANTEE LIMIT.—The aggregate amount of loans guaranteed and outstanding at any 1 time under this section may not exceed $1,000,000,000.

(3) INDIVIDUAL GUARANTEE LIMIT.—The aggregate amount of loans guaranteed under this section with respect to a single qualified steel company may not exceed $250,000,000.

(4) MINIMUM GUARANTEE AMOUNT.—No single loan in an amount that is less than $25,000,000 may be guaranteed under this section.

(5) TIMELINES.—The Board shall approve or deny each application for a guarantee under this section as soon as possible after receipt of such application.

(6) ADDITIONAL COSTS.—For the additional cost of the loans guaranteed under this subsection, including the costs of modifying the loans as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661a), there is appropriated $140,000,000 to remain available until expended.

(g) REQUIREMENTS FOR LOAN GUARANTEES.—A loan guarantee may be issued under this section upon application to the Board by a qualified steel company pursuant to an agreement to provide a loan to that qualified steel company by a private bank or investment company, if the Board determines that—

(1) credit is not otherwise available to that company under reasonable terms or conditions sufficient to meet its financing needs, as reflected in the financial and business plans of that company;

(2) the prospective earning power of that company, together with the character and value of the security pledged, furnish reasonable assurance of repayment of the loan to be guaranteed in accordance with its terms;

(3) the loan to be guaranteed bears interest at a rate determined by the Board to be reasonable, taking into account the current average yield on outstanding obligations of the United States with remaining periods of maturity comparable to the maturity of such loan; and

(4) the company has agreed to an audit by the General Accounting Office, prior to the issuance of the loan guarantee and annually while any such guaranteed loan is outstanding.

(h) TERMS AND CONDITIONS OF LOAN GUARANTEES.—

(1) LOAN DURATION.—All loans guaranteed under this section shall be payable in full not later than December 31, 2005, and the terms and conditions of each such loan shall provide that the loan may not be amended, or any provision thereof waived, without the consent of the Board.

(2) LOAN SECURITY.—Any commitment to issue a loan guarantee under this section shall contain such affirmative and negative covenants and other protective provisions that the Board determines are appropriate. The Board shall require security for the loans to be guaranteed under this section at the time at which the commitment is made.

(3) FEES.—A qualified steel company receiving a guarantee under this section shall pay a fee in an amount equal to 0.5 percent of the outstanding principal balance of the guaranteed loan to the Department of the Treasury.

(i) REPORTS TO CONGRESS.—The Secretary of Commerce shall submit to Congress annually, a full report of the activities of the Board under this section during fiscal years 1999 and 2000, and annually thereafter, during such period as any loan guaranteed under this section is outstanding.

(j) SALARIES AND ADMINISTRATIVE EXPENSES.—For necessary expenses to administer the Program, $5,000,000 is appropriated to the Department of Commerce, to remain available until expended, which may be transferred to the Office of the Assistant Secretary for Trade Development of the International Trade Administration.

(k) TERMINATION OF GUARANTEE AUTHORITY.—The authority of the Board to make commitments to guarantee any loan under this section shall terminate on December 31, 2001.

(*l*) REGULATORY ACTION.—The Board shall issue such final procedures, rules, and regulations as may be necessary to carry out this section not later than 60 days after the date of enactment of this Act.

(m) EMERGENCY DESIGNATION.—The entire amount made available to carry out this section—

(1) is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(A)); and

(2) shall be available only to the extent that an official budget request that includes designation of the entire amount of the request as an emergency requirement (as defined in the Balanced Budget and Emergency Deficit Control Act of 1985) is transmitted by the President to Congress.

FRIST (AND THOMPSON) AMENDMENT NO. 86

Mr. STEVENS (for Mr. FRIST for himself and Mr. THOMPSON) proposed an amendment to the bill, S. 544, supra; as follows:

On page 30, line 1, strike ''$11,300,000'' and insert ''$14,500,000''.

On page 43, line 12, strike ''$11,300,000'' and insert ''$14,500,000''.

STEVENS AMENDMENT NO. 87

Mr. STEVENS proposed an amendment to the bill, S. 544, supra; as follows:

At the Appropriate place in the bill, insert:

SEC. . Notwithstanding any other provision of law, the taking of a Cook Inlet beluga whale under the exemption provided in section 101(b) of the Marine Mammal Protection Act (16 U.S.C. 1371(a)) between the date of the enactment of this Act and October 1, 2000 shall be considered a violation of such Act unless such taking occurs pursuant to a cooperative agreement between the National Marine Fisheries Service and Cook Inlet Marine Mammal Commission.

STEVENS AMENDMENT NO. 88

Mr. STEVENS proposed an amendment to the bill, S. 544, supra; as follows:

At the Appropriate place in the bill, insert:

SEC. . Funds provided in the Department of Commerce, Justice and State, the Judiciary, and Related Agencies Appropriations Act, 1999 (P.L. 105–277, Division A, Section 101(b)) for the construction of correctional facility in Barrow Alaska shall be made available to the North Slope Borough.

HUTCHINSON AMENDMENT NO. 89

Mr. HUTCHINSON proposed an amendment to the bill, S. 544, supra; as follows:

At the appropriate place, insert the following new section:

SEC. ___. PRIOR CONGRESSIONAL APPROVAL FOR SUPPORTING ADMISSION OF CHINA INTO THE WTO.

(a) IN GENERAL.—Notwithstanding any other provision of law, the United States may not support the admission of the People's Republic of China as a member of the World Trade Organization unless a provision of law is passed by both Houses of Congress and enacted into law after the enactment of this Act that specifically allows the United States to support such admission.

(b) PROCEDURES FOR CONGRESSIONAL APPROVAL OF UNITED STATES SUPPORT FOR ADMISSION OF CHINA INTO THE WTO.—

(1) NOTIFICATION OF CONGRESS.—The President shall notify the Congress in writing if the President determines that the United States should support the admission of the People's Republic of China into the World Trade Organization.

(2) SUPPORT OF CHINA'S ADMISSION INTO THE WTO.—The United States may support the admission of the People's Republic of China into the World Trade Organization if a joint resolution is enacted into law under subsection (c) and the Congress adopts and transmits the joint resolution to the President before the end of the 90-day period (excluding any day described in section 154(b) of the Trade Act of 1974), beginning on the date on which the Congress receives the notification referred to in paragraph (1).

(c) JOINT RESOLUTION.—

(1) JOINT RESOLUTION.—For purposes of this section, the term ''joint resolution'' means only a joint resolution of the 2 Houses of Congress, the matter after the resolving clause of which is as follows: ''That the Congress approves the support of the United States for the admission of the People's Republic of China into the World Trade Organization.''.

(2) PROCEDURES.—

(A) IN GENERAL.—A joint resolution may be introduced at any time on or after the date on which the Congress receives the notification referred to in subsection (b)(1), and before the end of the 90-day period referred to in subsection (b)(2). A joint resolution may be introduced in either House of the Congress by any member of such House.

(B) APPLICATION OF SECTION 152.—Subject to the provisions of this subsection, the provisions of subsections (b), (d), (e), and (f) of section 152 of the Trade Act of 1974 (19 U.S.C. 2192(b), (d), (e), and (f)) apply to a joint resolution under this section to the same extent as such provisions apply to resolutions under section 152.

(C) DISCHARGE OF COMMITTEE.—If the committee of either House to which a joint resolution has been referred has not reported it by the close of the 45th day after its introduction (excluding any day described in section 154(b) of the Trade Act of 1974), such committee shall be automatically discharged from further consideration of the joint resolution and it shall be placed on the appropriate calendar.

(D) CONSIDERATION BY APPROPRIATE COMMITTEE.—It is not in order for—

(i) the Senate to consider any joint resolution unless it has been reported by the Committee on Finance or the committee has been discharged under subparagraph (C); or

(ii) the House of Representatives to consider any joint resolution unless it has been reported by the Committee on Ways and Means or the committee has been discharged under subparagraph (C).

(E) CONSIDERATION IN THE HOUSE.—A motion in the House of Representatives to proceed to the consideration of a joint resolution may only be made on the second legislative day after the calendar day on which the Member making the motion announces to the House his or her intention to do so.

(3) CONSIDERATION OF SECOND RESOLUTION NOT IN ORDER.—It shall not be in order in either the House of Representatives or the Senate to consider a joint resolution (other than a joint resolution received from the other House), if that House has previously adopted a joint resolution under this section.

GRASSLEY AMENDMENT NO. 90

(Ordered to lie on the table.)

Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill, S. 544, supra; as follows:

On page 29, insert after line 10:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF THE SECRETARY

GENERAL DEPARTMENTAL MANAGEMENT

For an additional amount for ''general departmental management'', $1,400,000, to reduce the backlog of pending nursing home appeals before the Departmental Appeals Board.

On page 42, line 8, strike $3,116,076,000 and insert $3,114,676,000.

On page 42, line 9, strike $164,933,000 and insert $163,533,000.

EXPLANATION AND JUSTIFICATION

This amendment provides an additional $1,400,000 for the Department of Health and Human Services Appeals Board. The amendment would require that this sum be used by the Appeals Board to reduce a backlog of appeals by nursing facilities of civil monetary penalties levied by the Health Care Financing Administration for infractions of the Nursing Home Reform Act of 1987.

The Department of Health and Human Services Departmental Appeals Board hears and decides cases on appeal from program units of the Department. Lack of sufficient resources to handle a rapidly increasing case load has lead to a large backlog of pending cases. The major contributor to this backlog is a substantial increase in appeals of civil monetary penalties levied by HCFA on nursing facilities. Appeals of CMPs have increased at an accelerating rate each year since 1995. The rate of increase has accelerated further since January, 1999, reflecting the enhanced oversight and enforcement of nursing facilities undertaken by HCFA following a Presidential initiative and hearings by the Special Committee on Aging. The backlog of appeals subverts the purpose and effect of civil monetary penalties, delaying corrective action and improvements in the quality of care by nursing facilities. Delay in adjudication of appeals is also a burden to nursing facilities.

ADMINISTRATION BUDGET PROPOSAL FOR FY 2000

The Clinton Administration proposed an increase of $2.8 million for FY 2000 for the Departmental Appeals Board. This amendment would speed up provision of those funds the Appeals Board could effectively use before the end of this fiscal year and thus and permit the Appeals Board to begin immediately to take steps to reduce the backlog of appeals by nursing facilities.

DETAILS FOR DEPARTMENTAL APPEALS BOARD NURSING HOME CASELOAD

Year	Cases received	Closed no decision	Closed with decision	Pending
1996	335	101	22	212
1997	441	160	25	468
1998	483	303	22	626
1999[1]	196	117	4	701

[1] As of January 22, 1999.

Note that, although the number of new cases received each year has increased, the number of cases decided has not, indicating lack of resources sufficient to keep up with the increasing annual number of new cases. Currently, the Appeals Board is receiving about 25 new cases per week. In earlier periods 8 to 10 new cases per week were being received.

ROBERTS (AND BROWNBACK) AMENDMENT NO. 91

(Ordered to lie on the table.)

Mr. ROBERTS (for himself and Mr. BROWNBACK) submitted an amendment intended to be proposed by them to the bill, S. 544, supra; as follows:

At the appropriate place, insert:

SEC. . LIABILITY OF CERTAIN NATURAL GAS PRODUCERS.

The Natural Gas Policy Act of 1978 (15 U.S.C. 3301 et seq.) is amended by adding at the end the following:

''SEC. 603. LIABILITY OF CERTAIN NATURAL GAS PRODUCERS.

''If the Commission orders any refund of any rate or charge made, demanded, or received for reimbursement of State ad valorem taxes in connection with the sale of natural gas before 1989, the refund shall be ordered to be made without interest or penalty of any kind.''.

TORRICELLI AMENDMENT NO. 92

Mr. TORRICELLI proposed an amendment to the bill, S. 544, supra; as follows:

On page 45, between lines 18 and 19, insert the following:

SEC. ___. LIMITATION OF FUNDING.

(a) IN GENERAL.—Effective December 31, 1999, funding authorized pursuant to the third and fourth provisos under the heading ''SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES'' under the heading ''LEGAL ACTIVITIES'' under the heading ''GENERAL ADMINISTRATION'' in title II of Public Law 100–202 (101 Stat. 1329-9; 28 U.S.C. 591 note) shall not be available to an independent counsel, appointed before June 30, 1996, pursuant to chapter 40 of title 28, United States Code.

(b) PENDING INVESTIGATIONS.—Any investigation or prosecution of a matter being conducted by an independent counsel, appointed before June 30, 1996, pursuant to chapter 40 of title 28, United States Code, and the jurisdiction over that matter, shall be transferred to the Attorney General by December 31, 1999.

HELMS (AND MCCONNELL) AMENDMENT NO. 93

Mr. STEVENS (for Mr. HELMS for himself and Mr. MCCONNELL) proposed an amendment to the bill, S. 544, supra; as follows:

On page 8, line 22, insert before the proviso the following: ''*Provided further*, That up to $1,500,000 of the funds appropriated by this heading may be transferred to 'Operating Expenses of the Agency for International Development, Office of Inspector General', to remain available until expended, to be used for costs of audits, inspections, and other activities associated with the expenditure of funds appropriated by this heading: *Provided further*, That $500,000 of the funds appropriated by this heading shall made be available to the Comptroller General for purposes of monitoring the provision of assistance using funds appropriated by this heading: *Provided further*, That any funds appropriated by this heading that are made available for nonproject assistance shall be obligated and expended subject to the regular notification procedures of the Committees on Appropriations and to the notification procedures relating to the reprogramming of funds under section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1):''.

REID AMENDMENT NO. 94

Mr. STEVENS (for Mr. REID) proposed an amendment to the bill, S. 544, supra; as follows:

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

CONSTRUCTION, GENERAL

For an additional amount for ''Construction, General,'' $500,000 shall be available for technical assistance related to shoreline erosion at Lake Tahoe, NV caused by high lake levels pursuant to Section 219 of the Water Resources Development Act of 1992.

KYL AMENDMENT NO. 95

Mr. STEVENS (for Mr. KYL) proposed an amendment to the bill, S. 544, supra; as follows:

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

WATER AND RELATED RESOURCES

For an additional amount for ''Water and Related Resources,'' for emergency repairs to the Headgate Rock Hydraulic Project, $5,000,000 is appropriated pursuant to the Snyder Act (25 U.S.C.), to be expended by the Bureau of Reclamation, to remain available until expended.

DOMENICI AMENDMENT NO. 96

Mr. STEVENS (for Mr. DOMENICI) proposed an amendment to the bill, S. 544, supra; as follows:

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

CONSTRUCTION, GENERAL

Of the amounts made available under this heading in P.L. 105–245 for the Lackawanna River, Scranton, Pennsylvania, $5,000,000 are rescinded.

JEFFORDS AMENDMENT NO. 97

Mr. STEVENS (for Mr. JEFFORDS) proposed an amendment to the bill, S. 544, supra; as follows:

On page 9, line 10 after the word ''amended'' insert the following:

'': *Provided further*, That the Agency for International Development should undertake efforts to promote reforestation, with careful attention to the choice, placement, and management of species of trees consistent with watershed management objectives designed to minimize future storm damage, and to promote energy conservation through the use of renewable energy and energy-efficient services and technologies: *Provided further*, That reforestation and energy initiatives under this heading should be integrated with other sustainable development efforts''.

LEVIN AMENDMENT NO. 98

Mr. STEVENS (for Mr. LEVIN) proposed an amendment to the bill, S. 544, supra; as follows:

On page 58, between lines 15 and 16, insert the following:

TITLE V—MISCELLANEOUS

SEC. 5001. (a) DISPOSAL AUTHORIZED.—Subject to subsection (c), the President may dispose of the material in the National Defense

Stockpile specified in the table in subsection (b).

(b) TABLE.—The total quantity of the material authorized for disposal by the President under subsection (a) is as follows:

Authorized Stockpile Disposal

Material for disposal	Quantity
Zirconium ore	17,383 short dry tons

(c) MINIMIZATION OF DISRUPTION AND LOSS.—The President may not dispose of material under subsection (a) to the extent that the disposal will result in—

(1) undue disruption of the usual markets of producers, processors, and consumers of the material proposed for disposal; or

(2) avoidable loss to the United States.

(d) RELATIONSHIP TO OTHER DISPOSAL AUTHORITY.—The disposal authority provided in subsection (a) is new disposal authority and is in addition to, and shall not affect, any other disposal authority provided by law regarding the material specified in such subsection.

(e) NATIONAL DEFENSE STOCKPILE DEFINED.—In this section, the term ''National Defense Stockpile Transaction Fund'' means the fund in the Treasury of the United States established under section 9(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(a)).

GRAHAM (AND DEWINE) AMENDMENT NO. 99

(Ordered to lie on the table.)

Mr. GRAHAM (for himself and Mr. DEWINE) submitted an amendment intended to be proposed by them to the bill, S. 544, supra; as follows:

On page 44, line 15, strike ''Military,'' and insert ''Military and those appropriated under title V of that division (relating to counter-drug activities and interdiction),''.

DOMENICI AMENDMENT NO. 100

Mr. STEVENS (for Mr. DOMENICI) proposed an amendment to the bill, S. 544, supra; as follows:

On page 30, after line 10 insert:

CHAPTER 7

EXECUTIVE OFFICE OF THE PRESIDENT AND FUNDS APPROPRIATED TO THE PRESIDENT

FEDERAL DRUG CONTROL PROGRAMS

HIGH INTENSITY DRUG TRAFFICKING AREAS PROGRAM (INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of National Drug Control Policy's High Intensity Drug Trafficking Areas Program, an additional $750,000 is appropriated for drug control activities which shall be used specifically to expand the Southwest Border High Intensity Drug Trafficking Area for the State of New Mexico to include Rio Arriba County, Santa Fe County, and San Juan County, New Mexico, which are hereby designated as part of the Southwest Border High Intensity Drug Trafficking Area for the State of New Mexico, and an additional $500,000 is appropriated for national efforts related to methamphetamine reduction efforts.''

On page 44, after line 7 insert:

CHAPTER 9

EXECUTIVE OFFICE OF THE PRESIDENT AND FUNDS APPROPRIATED TO THE PRESIDENT

FEDERAL DRUG CONTROL PROGRAMS

SPECIAL FORFEITURE FUND (RESCISSION)

Of the funds made available under this heading in Division A of the Omnibus Consolidated and Emergency Supplemental Appropriations, 1999 (Public Law 105–277) $1,250,000 are rescinded.

ROBERTS AMENDMENT NO. 101

Mr. STEVENS. (for Mr. ROBERTS) proposed an amendment to the bill, S. 544, supra; as follows:

At the appropriate place, insert:

SEC. —. LIABILITY OF CERTAIN NATURAL GAS PRODUCERS.

The Natural Gas Policy Act of 1978 (15 U.S.C. 3301 et seq.) is amended by adding at the end the following:

''SEC. 603. LIABILITY OF CERTAIN NATURAL GAS PRODUCERS.

''If the Commission orders any refund of any rate or charge made, demanded, or received for reimbursement of State ad valorem taxes in connection with the sale of natural gas before 1989, the refund shall be ordered to be made without interest or penalty of any kind.''.

STEVENS AMENDMENT NO. 102

Mr. STEVENS proposed an amendment to the bill, S. 544, supra; as follows:

At the end of Title II insert the following:

''SEC. . Section 328 of the Department of the Interior and Related Agencies Appropriations Act, 1999 (P.L. 105–277, Division A, Section 1(e), Title III) is amended by striking ''none of the funds in this Act'' and inserting ''none of the funds provided in this Act to the Indian Health Service or Bureau of Indian Affairs''.''

GRAMS AMENDMENT NO. 103

Mr. STEVENS (for Mr. GRAMS) proposed an amendment to the bill, S. 544, supra; as follows:

On page 30, between lines 10 and 11, insert the following:

PHA RENEWAL

Of amounts appropriated for fiscal year 1999 for salaries and expenses under this heading in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999, $3,400,000 shall be transferred to the appropriate account of the Department of Housing and Urban Development for annual contributions to public housing agencies for the operation of low-income housing projects under section 673 of the Housing and Community Development Act of 1992 (42 U.S.C. 1437g): *Provided*, That in distributing such amount, the Secretary of Housing and Urban Development shall give priority to public housing agencies that submitted eligible applications for renewal of fiscal year 1995 elderly service coordinator grants pursuant to the Notice of Funding Availability for Service Coordinator Funds for Fiscal Year 1998, as published in the Federal Register on June 1, 1998.

LINCOLN AMENDMENT NO. 104

Mr. STEVENS (for Mrs. LINCOLN) proposed an amendment to the bill, S. 544, supra; as follows:

On page 5, line 9, strike ''watersheds'' insert in lieu thereof the following: ''watersheds, including debris removal that would not be authorized under the Emergency Watershed Program,''.

GORTON AMENDMENT NO. 105

Mr. STEVENS (for Mr. GORTON) proposed an amendment to the bill, S. 544, supra; as follows:

Add at the appropriate place the following new section:

SEC. . (a) LOAN DEFICIENCY PAYMENTS FOR CLUB WHEAT PRODUCERS.—In making loan deficiency payments available under section 135 of the Agricultural Market Transition Act (7 U.S.C. 7235) to producers of club wheat, the Secretary of Agriculture may not assess a premium adjustment on the amount that would otherwise be computed for club wheat under the section to reflect the premium that is paid for club wheat to ensure its availability to create a blended specialty product known as western white wheat.

(b) RETROACTIVE APPLICATION.—As soon as practicable after the date of the enactment of this Act, the Secretary of Agriculture shall make a payment to each producer of club wheat that received a discounted loan deficiency payment under section 135 of the Agricultural Market Transition Act (7 U.S.C. 7235) before that date as a result of the assessment of a premium adjustment against club wheat. The amount of the payment for a producer shall be equal to the difference between—

(1) the loan deficiency payment that would have been made to the producer in the absence of the premium adjustment; and

(2) the loan deficiency payment actually received by the producer.

(c) FUNDING SOURCE.—The Secretary shall use funds available to provide marketing assistance loans and loan deficiency payments under subtitle C of the Agricultural Market Transition Act (7 U.S.C. 7231 et seq.) to make the payments required by subsection (b).

STEVENS AMENDMENT NO. 106

Mr. STEVENS proposed an amendment to the bill, S. 544, supra; as follows:

At the appropriate place in title II, insert:

SEC. . GLACIER BAY. (a) DUNGENESS CRAB FISHERMEN.—Section 123(b) of the Department of the Interior and Related Agencies Appropriations Act, 1999 (section 101(e) of division A of Public Law 105–277) is amended—

(1) in paragraph (1)—

(A) by striking ''February 1, 1999'' and inserting ''June 1, 1999''; and

(B) by striking ''1996'' and inserting ''1998''; and

(2) in paragraph (3) by striking ''the period January 1, 1999, through December 31, 2004, based on the individual's net earnings from the Dungeness crab fishery during the period January 1, 1991, through December 31, 1996'' and inserting ''for the period beginning January 1, 1999 that is equivalent in length to the period established by such individual under paragraph (1), based on the individual's net earnings from the Dungeness crab fishery during such established period''.

(b) OTHERS EFFECTED BY FISHERY CLOSURES AND RESTRICTIONS.—Section 123 of the Department of the Interior and Related Agencies Appropriations Act, 1999 (section 101(e) of division A of Public Law 105–277), as amended, is amended further by redesignating subsection (c) as subsection (d) and inserting immediately after subsection (b) the following new subsection:

''(c) OTHERS AFFECTED BY FISHERY CLOSURES AND RESTRICTIONS.—The Secretary of the Interior is authorized to provide such funds as are necessary for a program developed with the concurrence of the State of Alaska to fairly compensate United States fish processors, fishing vessel crew members, communities, and others negatively affected by restrictions on fishing in Glacier Bay National Park. For the purpose of receiving compensation under the program required by this subsection, a potential recipient shall provide a sworn and notarized affidavit to establish the extent of such negative effect.''.

(c) IMPLEMENTATION.—Section 123 of the Department of the Interior and Related Agencies Appropriations Act, 1999 (section 101(e) of division A of Public Law 105–277), as amended, is amended further by inserting at the end the following new subsection:

''(e) IMPLEMENTATION AND EFFECTIVE DATE.—The Secretary of the Interior shall publish an interim final rule for the federal implementation of subsection (a) and shall provide an opportunity for public comment on such interim final rule. The effective date of the prohibitions in paragraphs (2) through (5) of section (a) shall be 60 days after the publication in the Federal Register of a final rule for the federal implementation of subsection (a). In the event that any individual eligible for compensation under subsection (b) has not received full compensation by June 15, 1999, the Secretary shall provide partial compensation on such date to such individual and shall expeditiously provide full compensation thereafter.''.

(d) Of the funds provided under the heading ''National Park Service, Construction'' in Public Law 105–277, $3,000,000 shall not be available for obligation until October 1, 1999.

GORTON AMENDMENT NO. 107

Mr. STEVENS (for Mr. GORTON) proposed an amendment to the bill, S. 544, supra; as follows:

On page 12, line 15, after the word ''nature'' insert the following: '', and to replace and repair power generation equipment''.

LANDRIEU AMENDMENT NO. 108

Mr. STEVENS (for Ms. LANDRIEU) proposed an amendment to the bill, S. 544, supra; as follows:

On page 9, line 10, after the word ''amended'' insert the following: ''*:Provided further*, That of the funds made available under this heading, up to $10,000,000 may be used to build permanent single family housing for those who are homeless as a result of the effects of hurricanes in Central America and the Caribbean''.

DASCHLE AMENDMENTS NO. 109–110

Mr. STEVENS (for Mr. DASCHLE) proposed two amendments to the bill, S. 544, supra; as follows:

AMENDMENT NO. 109

At the appropriate place, insert the following:

SEC. _____. WHITE RIVER SCHOOL DISTRICT #4.

From any unobligated funds that are available to the Secretary of Education to carry out section 306(a)(1) of the Department of Education Appropriations Act, 1996, the Secretary shall provide not more than $239,000, under such terms and conditions as the Secretary determines appropriate, to the White River School District #4, #47–1, White River, South Dakota, to be used to repair damage caused by water infiltration at the White River High School, which shall remain available until expended.

AMENDMENT NO. 110

At the appropriate place, insert the following new section:

SEC. ____. (a) The treatment provided to firefighters under section 628(f) of the Treasury and General Government Appropriations Act, 1999 (as included in section 101(h) of Division A of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277)) shall be provided to any firefighter who—

(1) on the effective date of section 5545b of title 5, United States Code—

(A) was subject to such section; and

(B) had a regular tour of duty that averaged more than 60 hours per week; and

(2) before December 31, 1999, is involuntarily moved without a break in service from the regular tour of duty under paragraph (1) to a regular tour of duty that—

(A) averages 60 hours or less per week; and

(B) does not include a basic 40-hour workweek.

(b) Subsection (a) shall apply to firefighters described under that subsection as of the effective date of section 5545b of title 5, United States Code.

(c) The Office of Personnel Management may prescribe regulations necessary to implement this section.

ENZI (AND OTHERS) AMENDMENT NO. 111

Mr. STEVENS (for Mr. ENZI for himself, Mr. SESSIONS, Mr. GRAMS, Mr. BRYAN, Mr. LUGAR, Mr. REID, Mr. VOINOVICH, and Mr. BROWNBACK) proposed an amendment to the bill, S. 544 supra; as follows:

At the appropriate place, insert the following:

SEC. . PROHIBITION.

(a) Notwithstanding any other provision of law, prior to eight months after Congress receives the report of the National Gambling Impact Study Commission, the Secretary of the Interior shall not—

(1) promulgate as final regulations, or in any way implement, the proposed regulations published on January 22, 1998, at 63 Fed. Reg. 3289; or

(2) issue a notice of proposed rulemaking for, or promulgate, or in any way implement, any similar regulations to provide for procedures for gaming activities under the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.), in any case in which a State asserts a defense of sovereign immunity to a lawsuit brought by an Indian tribe in a Federal court under section 11(d)(7) of that Act (25 U.S.C. 2710(d)(7)) to compel the State to participate in compact negotiations for class III gaming (as that term is defined in section 4(8) of that Act (25 U.S.C. 2703(8))).

(3) approve class III gaming on Indian lands by any means other than a Tribal-State compact entered into between a state and a tribe.

(b) DEFINITIONS.—

(1) The terms ''class III gaming'', ''Secretary'', ''Indian lands'', and ''Tribal-State compact'' shall have the same meaning for the purposes of this section as those terms have under the Indian Gaming Regulatory act (25 U.S.C. 2701 et seq.).

(2) the ''report of the National Gambling Impact Study Commission'' is the report described in section 4(b) of P.L. 104–169 (18 U.S.C. sec. 1955 note).

DORGAN (AND CRAIG) AMENDMENT NO. 112

Mr. STEVENS (for Mr. DORGAN, for himself and Mr. CRAIG) proposed an amendment to the bill, S. 544, supra; as follows:

At the appropriate place in title II, insert the following new section:

SEC. . SENSE OF THE SENATE: EXPRESSING THE SENSE OF THE SENATE THAT A PENDING SALE OF WHEAT AND OTHER AGRICULTURAL COMMODITIES TO IRAN BE APPROVED.

The Senate finds:

That an export license is pending for the sale of United States wheat and other agricultural commodities to the nation of Iran;

That this sale of agricultural commodities would increase United States agricultural exports by about $500 million, at a time when agricultural exports have fallen dramatically;

That sanctions on food are counterproductive to the interests of United States farmers and to the people who would be fed by these agricultural exports:

Now therefore, it is the sense of the Senate that the pending license for this sale of United States wheat and other agricultural commodities to Iran be approved by the administration.

GREGG AMENDMENT NO. 113

Mr. STEVENS (for Mr. GREGG) proposed an amendment to the bill, S. 544, supra; as follows:

At the appropriate place in title II, insert the following:

SEC. . LIMITATION ON FISHING PERMITS OR AUTHORIZATIONS

Section 617(a) of the Department of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1999 (as added by section 101(b) of division A of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277)) is amended by inserting—

(a) ''or under any other provisions of the law hereinafter enacted,'' after ''made available in the Act''; and,

(b) at the end of paragraph (1) and before the semicolon, ''unless the participation of such a vessel in such fishery is expressly allowed under a fishery management plan or plan amendment developed and approved first by the appropriate Regional Fishery Management Council(s) and subsequently approved by the Secretary for that fishery under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.)''.

CRAPO AMENDMENT NO. 114

Mr. STEVENS (for Mr. CRAPO) proposed an amendment to the bill, S. 544, supra; as follows:

On page 58, between lines 15 and 16, insert the following:

SEC. 4. . WATER AND WASTEWATER INFRASTRUCTURE PROJECTS.

Of the amount appropriated under the heading ''ENVIRONMENTAL PROGRAMS AND MANAGEMENT'' in title III of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (Public Law 105–276), $1,300,000 shall be transferred to the State and tribal assistance grant account for a grant for water and wastewater infrastructure projects in the State of Idaho.

KOHL (AND OTHERS) AMENDMENT NO. 115

Mr. STEVENS (for Mr. KOHL, for himself, Mr. HARKIN, and Mr. DURBIN) proposed an amendment to the bill, S. 544, supra; as follows:

On page 37, line 9 strike $285,000,000'' and insert in lieu thereof $313,000,000''.

At the appropriate place, insert the following:

''SEC. . Notwithstanding Section 11 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714i), an additional $28,000,000 shall be provided through the Commodity Credit Corporation in fiscal year 1999 for technical assistance activities performed by any agency of the Department of Agriculture in carrying out any conservation or environmental program funded by the Commodity Credit

Corporation: *Provided,* That the entire amount shall be available only to the extent an official budget request for $28,000,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(A) of such Act.''.

BOND (AND OTHERS) AMENDMENT NO. 116

Mr. STEVENS (for Mr. BOND for himself, Mr. DURBIN, Mr. ASHCROFT, Mr. GRASSLEY, Mr. FRIST, and Mr. HARKIN) proposed an amendment to the bill, S. 544, supra; as follows:

On page 2, between lines 20 and 21, insert the following:

FUNDS FOR STRENGTHENING MARKETS, INCOME, AND SUPPLY

(SECTION 32)

For an additional amount for the fund maintained for funds made available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), $150,000,000: *Provided,* That the entire amount shall be available only to the extent an official budget request for $150,000,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: *Provided further,* That the entire amount is designated by Congress as an emergency requirement under section 251(b)(2)(A) of such Act.

On page 7, between lines 8 and 9, insert the following:

GENERAL PROVISION, THIS CHAPTER

SEC. ____. The Secretary of Agriculture may waive the limitation established under the second sentence of the second paragraph of section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), on the amount of funds that may be devoted during fiscal year 1999 to any 1 agricultural commodity or product thereof.

On page 37, line 9, strike ''$285,000,000'' and insert ''$435,000,000''.

BYRD (AND STEVENS) AMENDMENT NO. 117

Mr. STEVENS (for Mr. BYRD for himelf and Mr. STEVENS) proposed an amendment to the bill, S. 544, supra; as follows:

On page 37, line 9 strike ''$313,000,000'' and insert in lieu thereof ''$343,000,000''.

On page 5, after line 20 insert the following:

RURAL COMMUNITY ADVANCEMENT PROGRAM

For an additional amount for the costs of direct loans and grants of the rural utilities programs described in section 381E(d)(2) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009f), as provided in 7 U.S.C. 1926(a) and 7 U.S.C. 1926C for distribution through the national reserve, $30,000,000, of which $25,000,000 shall be for grants under such program: *Provided,* That the entire amount shall be available only to the extent an official budget request for $30,000,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(A) of such Act.

STEVENS AMENDMENT NO. 118

Mr. STEVENS proposed an amendment to the bill, S. 544, supra; as follows:

At the appropriate place in the bill insert the following new section:

SEC. . Notwithstanding any other provision of law, monies available under section 763 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 shall be provided by the Secretary of the Agriculture directly to any state determined by the Secretary of Agriculture to have been materially affected by the commercial fishery failure or failures declared by the Secretary of Commerce in September, 1998 under section 312(a) of the Magnuson-Stevens Fishery Conservation and Management Act. Such state shall disburse the funds to individuals with family incomes below the federal poverty level who have been adversely affected by the commercial fishery failure or failures: *Provided,* That the entire amount shall be available only to the extent an official budget request for such amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: *Provided further,* That the entire amount is designated by Congress as an emergency requirement under section 251(b)(2)(A) of such Act.

FEINSTEIN (AND BOXER) AMENDMENT NO. 119

Mr. STEVENS (for Mrs. FEINSTEIN for herself and Mrs. BOXER) proposed an amendment to the bill, S. 544, supra; as follows:

On page 2, line 11, strike $20,000,000 and insert $25,000,000.

On page 2, line 13, strike $20,000,000 and insert $25,000,000.

On page 37, line 9, increase the amount by $5,000,000.

DeWINE (AND OTHERS) AMENDMENT NO. 120

Mr. STEVENS (for Mr. DEWINE for himself, Mr. BURNS, and Mr. COVERDELL) proposed an amendment to the bill, S. 544, supra; as follows:

On page 24, between lines 2 and 3, insert the following:

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

For an additional amount for ''International Narcotics Control and Law Enforcement'', $23,000,000, for additional counterdrug research and development activities: *Provided,* That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further,* That such amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in such Act is transmitted by the President to the Congress.

On page 37 increase the amount of the rescission on line 9 by $23,000,000.

On page 44, between lines 11 and 12, insert the following:

(b) Section 832(a) of the Western Hemisphere Drug Elimination Act (Public Law 105–277) is amended—

(1) in the first sentence—

(A) by striking ''Secretary of Agriculture'' and inserting ''Secretary of State''; and

(B) by striking ''the Agricultural Research Service of the Department of Agriculture'' and inserting ''the Department of State'';

(2) in paragraph (5), by inserting ''(without regard to any requirement in law relating to public notice or competition)'' after ''to contract''; and

(3) by adding at the end the following:

''Any record related to a contract entered into, or to an activity funded, under this subsection shall be exempted from disclosure as described in section 552(b)(3) of title 5, United States Code.''.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Full Energy and Natural Resources Committee to consider Nuclear Waste Storage and Disposal Policy, including S. 608, the Nuclear Waste Policy Act of 1999.

The hearing will take place on Wednesday, March 24, 1999, at 9:30 A.M. in room SD–366 of the Dirksen Senate Office Building.

For further information, please call Karen Hunsicker at (202) 224–3543 or Betty Nevitt, Staff Assistant at (202) 224–0765.

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will meet during the session of the Senate on Wednesday, March 24, 1999 at 9:30 a.m. to conduct a Hearing on S. 399, the Indian Gaming Regulatory Improvement Act of 1999. The Hearing will be held in room 485 of the Russell Senate Office Building.

Those wishing additional information should contact the Committee on Indian Affairs at 202–224–2251.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. McCONNELL. Mr. President, I wish to announce that the Committee on Rules and Administration will meet on Wednesday, March 24, 1999 at 9:30 a.m. in Room SR–301 Russell Senate Office Building, to receive testimony on campaign contribution limits.

For further information concerning this meeting, please contact Tamara Somerville at the Rules Committee on 4–6352.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that hearings have been scheduled before the Committee on Energy and Natural Resources.

The hearings will take place on Tuesday, April 20; Tuesday, April 27, and Tuesday, May 4, 1999. Each hearing will commence at 9:30 a.m. in room SD-366 of the Dirksen Senate Office Building in Washington, D.C.

The purpose of the hearings is to receive testimony on S. 25, the Conservation and Reinvestment Act of 1999; S. 446, the Resources 2000 Act; S. 532, the Public Land and Recreation Investment Act of 1999; and the Administration's Lands Legacy proposal.

Because of the limited time available for each hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony of the Committee on Energy and Natural Resources, United States Senate, 364 Dirksen Senate Office Building, Washington, D.C. 20510-6150.

For further information, please contact Kelly Johnson at (202) 224-4971.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, March 18, 1999, at 9:30 a.m., in open session, to receive testimony on the Defense authorization request for fiscal year 2000 and the Future Years Defense Program.

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

COMMITTEE ON FINANCE

Mr. STEVENS. Mr. President, the Finance Committee requests unanimous consent to conduct a hearing on Thursday, March 18, 1999, beginning at 10:00 a.m., in room 215, Dirksen.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet during the sessions of the Senate on Thursday, March 18, 1999 and Friday, March 19, 1999. The purpose of these meetings will be to consider S. 326, the Patients' Bill of Rights, and several nominations.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. STEVENS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, March 18, 1999 at 2:30 p.m. to hold a closed hearing on Intelligence Matters.

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

SUBCOMMITTEE ON EAST ASIAN AND PACIFIC AFFAIRS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Subcommittee on East Asian and Pacific Affairs be authorized to meet during the session of the Senate on Thursday, March 18, 1999 at 10:00 p.m. to hold a hearing.

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

SUBCOMMITTEE ON READINESS AND MANAGEMENT

Mr. STEVENS. Mr. President, I ask unanimous consent that the Subcommittee on Readiness and Management support of the Committee on Armed Services be authorized to meet at 2:00 on Thursday, March 18, 1999, in open session, to review the readiness of the United States Air Force and Army Operating Forces.

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

ADDITIONAL STATEMENTS

CROP INSURANCE IMPROVEMENT ACT OF 1999

• Mr. BURNS. Mr. President, I rise today as one of the proud cosponsors of S. 629, the Crop Insurance Improvement Act of 1999, sponsored by Senator CRAIG. The issue of crop insurance reform is and will continue to be a primary issue for agriculture this session.

The language offered today brings important changes to crop insurance, especially for specialty crops. This bill drastically improves procedures for determining yields and improves the non-insured crop assistance programs. This bill, S. 629, also improves the safety net to producers through cost of production crop insurance coverage.

This is another important tool to reform the current crop insurance program into a risk management program, which will return more of the economic dollar back to the producer. It is vital to find a solution to provide a way for farmers and ranchers to stay in agriculture. They must ultimately regain the responsibility for risk management the Federal Government withdrew.

To help agricultural producers do that, the Federal Government must fix the current crop insurance program and make it one the producer can use as an effective risk management tool. Eventually, I envision a crop insurance program that puts the control in the hands of agricultural producers. It is the Federal Government's role to facilitate a program to unite the producer and the private insurance company.

It is of utmost importance that we get the producers of this country back on track. Crop insurance reform is one sure way to do that. I urge my colleagues here today to consider the positive effect crop insurance will and must have on the farm economy.

Mr. President, I look forward to working with Senator CRAIG on crop insurance reform. I will have some amendments forthcoming, that I believe will make this bill even more effective. I also plan to introduce a bill this session that I believe will make even larger strides in the area of crop insurance reform.•

DOMESTIC HUNGER

• Mr. LEAHY. Mr. President, I take this opportunity to briefly talk about the problem of hunger in our nation. I would also like to place into the CONGRESSIONAL RECORD two recent front-page articles from the New York Times, written by Andrew Revkin. These articles provide valuable insight into the growing demand for emergency food assistance that food banks around the country have been facing over the last couple of years.

Mr. President, as we approach the beginning of the next century, we have much to be proud of as a nation. The stock market has reached an historic 10,000 mark. We are in the midst of one of the greatest economic expansions in our nation's history. More Americans own their own homes than at any time, and we have the lowest unemployment and welfare caseloads in a generation. Not to mention the fact that for the first time in three decades, there is a surplus in the federal budget.

Yet, there are millions of Americans who go hungry every day. This is morally unacceptable. We must resolve to put an end to the pernicious occurrence of hunger in our nation. Hunger is not a Democrat or Republican issue. Hunger is a problem that all Americans should agree must be ended in our nation.

While it is true that food stamp and welfare program caseloads are dropping, hunger is not. As families try to make the transition from welfare to work, too many are falling out and being left behind. And too often, it is our youth who is feeling the brunt of this, as one out of every five people lining up at soup kitchens is a child.

Second Harvest, the nation's largest hunger relief charity, distributed more than one billion pounds of food to an estimated 26 million low-income Americans last year through their network of regional food banks. These food banks provide food and grocery products to nearly fifty thousand local charitable feeding programs—food shelves, pantries, soup kitchens and emergency shelters.

Just as demand is rising at local hunger relief agencies, too many pantries and soup kitchens are being forced to turn needy people away because the request for their services exceeds available food. Today I enter into the record stories detailing some of the problems that these local hunger relief agencies, as chronicled in the New York Times.

Last December, Peter Clavelle, Mayor of Burlington, Vermont, released the U.S. Conference of Mayors Annual Survey of Hunger and Homelessness. The Mayors reported that demand for hunger relief services grew 14 percent last year. Additionally, 21 percent of requests for emergency food are estimated to have gone unmet. This is the highest rate of unmet need by

emergency food providers since the recession of the early 1990s. And this is not just a problem of the inner cities. According to the Census Bureau, hunger and poverty are growing faster in the suburbs than anywhere else in America. In my own state of Vermont, one in ten people is ''food insecure,'' according to government statistics. That is, of course, just a clinical way to say they are hungry or at risk of hunger.

Under the leadership of Deborah Flateman, the Vermont Food Bank in South Barre distributes food to approximately 240 private social service agencies throughout the state to help hungry and needy Vermonters. Just last week, the thousands of Vermonters who receive food from the Food Bank came perilously close to finding out what life would be like without its support, when the roof of the Food Bank's main warehouse collapsed. Though the warehouse was destroyed, the need for food was not, and the Vermont Food Bank is continuing its operation while being temporarily housed in a former nursing home. I applaud the efforts of Deborah and all of the workers and volunteers of the Food Bank who are persevering over this huge obstacle and are keeping food on the table for many hungry Vermonters.

The local food shelves and emergency kitchens which receive food from the Vermont Food Bank clearly are on the front-line against hunger. And what they are seeing is very disturbing—one in four seeking hunger relief is a child under the age of 17. Elderly people make up more than a third of all emergency food recipients. We cannot continue to allow so many of our youngest and oldest citizens face the prospect of hunger on a daily basis.

Perhaps the most troubling statistic about hunger in Vermont is that in 45 percent of the households that receive charitable food assistance, one or more adults are working. Nationwide, working poor households represent more than one-third of all emergency food recipients. These are people in Vermont and across the U.S. who are working, paying taxes and contributing to the economic growth of our nation, but are reaping few of the rewards.

Of the many problems that we face as a nation, hunger is one that is entirely solvable. It is my hope that my colleagues will read these articles, and that this body can then begin to take serious action during the 106th Congress, especially as we embark upon the fiscal year 2000 budget process, to end domestic hunger.

I ask that the two articles from the New York Times, dated February 26, and February 27, 1999 be printed in the RECORD.

The articles follow:

[From the New York Times, Feb. 27, 1999]

AS DEMAND FOR FOOD DONATIONS GROWS, SUPPLIES STEADILY DWINDLE

(By Andrew C. Revkin)

Ron Taritas was sitting in his office on the lake front in Chicago, phone in hand, dialing for donations. He was not having a very good day.

As one of four full-time brokers at Second Harvest, the country's largest nonprofit clearinghouse for donations to soup kitchens and food pantries, Taritas has the job of reeling in the grocery industry's castoffs—the mislabeled cans, outdated cartons and unpopular brands that will never make it to supermarket shelves.

But eight hours into this day, his best catch was 4,000 cases of Puffed Wheat, Raisin Bran, Honey Smacks and other cereals. Beyond that, all he had to show for his work was 32 cases of chocolate-crunch energy bars from a warehouse in Honolulu, 500 cases of bottled spring water from Tucson, Ariz., and 5,000 cases of Cremora from Columbus, Ohio.

''Some days,'' Taritas said, ''it's like catching smoke.''

These are anxious times at Second Harvest, the hub of America's sprawling system of church-basement soup kitchens and food pantries.

Over nearly two decades, that network has expanded to serve more than $1 billion worth of food each year to 20 million Americans. But now, as changes in welfare policy push many people away from the public dole, private charity is lagging even further behind in its efforts to feed the lengthening lines.

Part of the problem, by the charities' account, is rising demand on a system that was never really able to keep up in the first place. Last year, Second Harvest calculated that it would have to double the flow of food to supply everyone seeking help.

But the supply side has begun to hit hard times, too. Most troubling to the charities is the cooling of their traditional symbiotic relationship with America's food-making giants, in which millions of tons of surplus food products has flowed to people in need.

From the first, the key to that relationship was the industry's propensity for waste—and the charities' eagerness to make it go away, gracefully. But in the streamlining spirit of business in the late 1990's, the food makers are simply making fewer errors. And so there is less surplus food to pass along.

These days, a mantra of grocery manufacturers is ''zero defects.'' Chicken not good enough for cutlets is pressed into nuggets; scraps not good enough for nuggets are pulverized into pet food. Sales figures from checkout scanners are fed daily to manufacturers, allowing factories to fine-tune their output to match demand.

And in the last few years, heaps of dented or out-of-date cans and cartons have become the basis for an estimated $2 billion-a-year market in ''unsalable'' food. Instead of being donated, damaged goods are exported to developing countries or resold at sharp discounts in suburban flea markets, unlicensed stores in rural areas or warehouse-style outlets.

Certainly, the grocery makers still turn out a lot of surplus food. But over the last three years, after rising steadily for more than 15 years, the donations that are the core of Second Harvest's business have fallen 10 percent. And while a glut of pork and the Asian economic crisis allowed the Federal Government to kick in an unexpected burst of unsold meat and produce last year, demand is increasingly outstripping supply.

Although the drop is not enormous, it has already begun to reverberate across the far-flung charity network. From Second Harvest to the regional food banks and then down to the local outlets, the charities have been forced to devise all manner of new strategies to keep the food coming. They are cutting new deals with the grocery makers. They are reaching out to farmers and fishermen. Mainly, they are spending more of their time and scant money chasing additional, but smaller, donations from local sources instead of big corporations.

Some food pantries and soup kitchens remain relatively flush. But across the country, thousands of others are cutting hours, limiting the size and frequency of handouts, rationing coveted items like hot dogs and peanut butter and seeking unorthodox supplements like road-killed deer, according to state and local surveys and Second Harvest reports. Some are even having to turn people away.

Last year, half the food charities in New York City cut the size of handouts at least part of the year, according to a survey by the New York City Coalition Against Hunger, a private group. Largely for lack of food, the coalition has begun counseling churches and synagogues against setting up new pantries and soup kitchens.

At the end of the emergency-food chain—the men, women and children standing in line at the church-basement door—that faltering flow of donations is calling into question the notion that private charity should, and can, soften the sting of losing public entitlements. These days, a lot of people in the food-banking business are worrying that a system created as a supplement to public aid is turning out to be an increasingly ineffective substitute for it.

THE CHARITY NETWORK: SOURCE IN A CRISIS IS NOW A MAINSTAY

Twenty-five years ago, the only food bank in New Jersey was Kathleen DiChiara, a homemaker from Summit who carted canned goods in her station wagon from food drives at churches to people in need. Around the country, food pantries and soup kitchens were almost unknown beyond Skid Row.

But as the deep recession of the early 1980's took hold, followed by the budget cuts of the Reagan era, growing numbers of people found themselves without adequate food. Dozens, and then hundreds, of soup kitchens and food pantries sprouted where none had been seen since the Depression.

Even so, Ms. DiChiara recalled, there was always a feeling that the crisis would pass: Congress would restore money for social programs; the economy would revive.

But while the economy rebounded and Congress provided relief for the poor, the demand for food handouts grew, along with the charity network. And by the late 1980's, people in the food-banking business had begun to realize that they were becoming a fixture on the American landscape—more a secondary safety net than an emergency source of food.

Today, Ms. DiChiara runs one of the biggest food-banking operations in the country, the Community Food Bank of New Jersey, with a fleet of trucks that each month distributes a million pounds of food out of a 280,000-square-foot warehouse. New York City, which had only three dozen pantries and soup kitchens in 1980, had 600 in 1992 and now has about 1,100. Across the nation, the food network is more than 40,000 soup kitchens and food pantries strong, with more than 3,000 paid employees and 900,000 volunteers.

Almost from the beginning, the food network formed a tight alliance with grocery manufacturers. The charities offered a perfect outlet, allowing manufacturers and stores to dispose of damaged or unsold goods, cut dumping costs, gain tax breaks and get some good publicity along the way.

Soon, the relationship was institutionalized in formal agreements, and food company executives joined the boards of Second Harvest and its regional food banks.

But all along, there was a queasy feeling that this cozy, co-dependent relationship could not last. Sooner or later, the food

bankers knew, they would begin to pay for their reliance on the industry's prodigal past.

Soon after Thomas Debrowski became head of operations for the Pillsbury Company in 1991, the community relations people walked into his office in Minneapolis and presented him with records of the regular annual donation of several million pounds of flawed or unsold food to Second Harvest.

''They wanted to know if we wanted to increase it,'' Debrowski recalls. ''I said, 'Increase? My objective is to give them nothing next year.' ''

To an executive charged with burnishing the bottom line, in a business climate where everyone was on the prowl for greater efficiencies, the idea that millions of pounds of food was either failing inspection or going stale in warehouses was not acceptable. And before long, like most of the big food companies, Pillsbury instituted economies up and down the production line.

On the line for Green Giant Niblets brand corn, where workers once picked out discolored kernels by hand, electronic eyes now detect the rejects, and a puff of air blasts the offending kernel from the conveyer belt.

Shipping containers that tended to be crushed have been redesigned.

At a Minute Maid Hi-C fruit punch plant in Wharton, N.J., the process has been streamlined so that the raw ingredients arrive just 6 to 10 hours before a batch of juice is packaged, maintaining freshness and reducing the chance of a bad run. Where previously juice was not tested for quality until it had been canned, continual checks are now made for factors like sweetness, flavor, color and vitamin content right on the assembly line.

Improvements in marketing have paralleled those in manufacturing.

In the wasteful old days, new products were tested according to the Darwinian laws of the marketplace: A company would blanket the nation with the various new snack foods, for example, knowing that some were sure to fail. Only the fittest survived. The rest ended up in somebody's food bank.

Now, instead of ''pushing'' products out into the market, as industry argot would have it, the focus is on having them ''pulled'' into stores.

That means doing research to gauge consumer interests, testing products in carefully dissected markets before distributing them widely and tailoring production to sales. The result is far fewer stacks of failed experiments and formerly fashionable foods, like the oat bran cookies and muffins that became a staple at the nation's food banks after the fad faded in the early 90's.

Over all, what this means is that after rising steadily until 1995, when they reached 285 million pounds, annual donations from the big national food companies dropped to 259 million pounds in 1998.

To a certain extent, the food charities had become their own worst enemy by making waste so identifiable, said Janet E. Poppendieck, a Hunter College sociologist and author of a new book, ''Sweet Charity: Emergency Food and the End of Entitlement'' (Viking Press, 1998).

''No firm is going to continue to put labels on jars upside down so that there will be peanut butter at the food bank,'' she said.

'BANANA BOX DEALS': NEW COMPETITION FOR FLAWED GOODS

At the supermarket, the can or carton of soup or cereal that still fails to sell, or is dented after falling off a truck or store shelf, remains the biggest single source of food for the charity pipeline.

Now, in a shift that has the companies and the charities alarmed, more and more of these products are finding their way back out to paying customers.

Over the last decade, a host of ''reclamation centers'' have evolved as a way for supermarket chains to tally damage and charge manufacturers for losses. At the centers, leaky packages are thrown out, and any usable products are repacked in the rectangular cartons in which bananas are shipped. Some are donated to Second Harvest, particularly if the manufacturer requested that option. But, more and more, the cans and cartons are sold, at pennies on the dollar, to wholesalers who sell them yet again.

One recent posting on a Web site for salvaged goods, by a Massachusetts company called I–ADA Merchandise Marketing, made this offer: ''Eight trailer loads of food from one of the leading department store chains in the U.S.A. All food is in date and has been gone through to discard any unmarketable merchandise. This is super clean merchandise. Packed in banana boxes. All boxes are full. You will not find a better banana box deal!!!!!''

In this trade, Second Harvest sees competition for a scarce resource. Companies like Lipton, Campbell Soup and Quaker Oats find themselves in a tug of war with their retailers over control of this damaged merchandise. With brand names they have nurtured for decades, the manufacturers fear liability and loss of consumer loyalty if a flea market shopper becomes ill after eating one of their products on this largely unregulated market. For their part, the retailers say the goods are their property to dispose of as they wish.

So far, this emerging market has not significantly slowed the flow of donated damaged goods to charities, but staff members at several large food charities project that it will. Indeed, clearly threatened by this booming trade, Second Harvest this year said it would enter the salvage business itself, offering to provide a secure final resting spot of damaged goods, distributing usable items only through its charity network and destroying anything that cannot be used.

REINVENTING THE DEAL: FACTORY RUNS FOR THE HUNGRY

Second Harvest and smaller food charities are trying a host of other strategies as they scurry to keep goods on charity shelves.

''Everyone knew the charities were going to be expected to do more now,'' Ms. DiChiara said. ''What I'm finding is that we're expected to do more with less.''

Until two years ago, Golden Grain, a pasta maker, donated thousands of pounds of noodles each month to the Greater Chicago Food Depository, the second largest food bank in the Second Harvest network. But donations fell after the company figured out how to grind up substandard pasta and feed it back through its machines, said the food bank's executive director, Michael P. Mulqueen.

Ultimately, the food bank and the pasta maker came up with a way to compensate for lost donations by running the factory at times of low market demand to create noodles just for the food bank, Mulqueen said. Pillsbury's Thomas Debrowski instituted a similar practice several years ago, and Minute Maid has begun making juice for Second Harvest. Some other companies, like Kraft, have shifted to cash donations.

Charities are also approaching farmers to scavenge leftover crops, conducting the Biblical ''second harvest'' for which the national group is named. The Clinton Administration last year announced plans for an ambitious campaign to glean some of the mountains of imperfect produce that now go to waste each year.

And last year, Second Harvest began distributing tons of Pacific Northwest fish that is caught in nets but cannot be sold because of Federal regulations controlling some fish stocks. The program, created with Northwest Food Strategies, a nonprofit group in Seattle, now sends frozen salmon, halibut and other fish around the country.

As always, canned-food drives by scouting groups and religious congregations are being employed, but they provide a fraction of the total flow, and the assortment of goods often does not contain the foods that are most needed—stew or cereal and the like.

At the Neighbor to Neighbor food pantry in Greenwich, Conn., there is a ''gourmet section,'' which recently contained goose liver pate, lemon curd and bamboo shoots.

Over all, experience has produced a discouraging sense at Second Harvest and other food banks that whenever they identify a new source of food, it seems to dry up.

''You peck away,'' said James Barone, who is in charge of procuring supplies for Food for Survival, the main New York city food bank. ''And it's a constant battle.''

For several years, trucks and crews from Food for Survival have toured the Hunt's Point produce market in the Bronx each morning after the supermarkets or other retailers have bought their supply for the day, seeking donations of overripe tomatoes or wilted lettuce or whatever else is left.

But the city's greengrocers appear to have noticed, and they often now wait until the end of the morning sales period, then offer cash, at a lower-than-usual price, for goods that might once have found their way into the charity system.

LIMITS ON CHARITY: BARE CUPBOARDS AND SAYING NO

At the food pantry in the basement of St. Raymond's Roman Catholic Church in the Parkchester section of the Bronx, the impact of the irregular flow of goods is apparent as soon as you walk in the door.

There is the large sign on a bulletin board: ''Alert. This food pantry is experiencing shortages. We reserve the right to limit quantities, limit the number of visits, extend the time between visits at any time and without prior notice.''

And there are the plastic bags of canned goods, rice and cereal handed out to a steady stream of old people, young women and a few young men. These days, the volunteers making up the grocery bags have less to choose from, because of a backlog of orders at Food for Survival.

Even basics like bread and juice are lacking lately, said Priscilla DiNapoli, the program's paid coordinator. When the Kellogg's Corn Flakes run out, as they inevitably do, the workers hand out Department of Agriculture crisp rice cereal printed with a message encouraging users to extend their other meals with cereal.

The flow of food was not coming close to keeping pace with rising demand, as many as 1,500 clients a month, Ms. DiNapoli said. So last spring, instead of letting people return every two weeks, the agency began limiting them to one visit a month, she said. ''We just don't have the food.''

[From the New York Times, Feb. 25, 1999]

PLUNGE IN USE OF FOOD STAMPS CAUSES CONCERN

(By Andrew C. Revkin)

The nation's food stamp rolls have dropped by one-third in four years, leading to a growing concern that the decline is caused partly by needy people's hesitance to apply for benefits.

A vibrant economy is clearly a major reason that the number of people using food stamps fell to fewer than 19 million last November, from nearly 28 million people four years earlier. But some in Congress, at the Agriculture Department, which administer

the food stamp program, and at private poverty groups say they feel that a significant number of people are not seeking help even though they still lack food and are eligible.

Some officials say they believe that stringent rules intended to put welfare recipients to work and reduce the welfare rolls may have also discourage people from seeking food stamps.

Some states and cities seeking to cut welfare rolls aggressively, for example, require applicants to search a month or more for a job before they can get benefits of any kind. Often, official say, people in need of emergency food aid simply walk out the door.

''The goal was to get people off welfare programs, but people may have failed to understand that the food stamp program is not a welfare program,'' said Shirley R. Watkins, the Under Secretary of Agriculture for food, nutrition and consumer service. ''It's nutritional assistance.''

In other cases, Ms. Watkins and other officials say, it may simply be the rising stigma surrounding public aid of all sorts that is keeping people from applying for food aid, the officials say.

The notion that too many people have abandoned food stamps has caused a flurry of activity at the Agriculture Department.

The department recently commissioned a study to understand a simultaneous rise in the demand on private food charities like church-basement food pantries and soup kitchens. The goal is to determine if some of these charity seekers are asking for handouts at private charities because they have lost access to public food aid, agriculture officials said.

Obtaining food stamps requires a simple showing of financial need, unlike other Federal benefits with more stringent regulations and requirements.

Medicaid has similar broad eligibility, and it too has recorded a similar unexplained drop in its rolls. Some officials have said that while this drop, too, can be attributed partly to the economy, some may also be the result of recipients believing, inaccurately, that once they are removed from welfare rolls, they are also ineligible for Medicaid.

Ms. Watkins said there were indications from states like Wisconsin that some people leaving welfare for low-wage work are not continuing to seek food stamps that could help them make it through the month.

Her misgivings are shared by some members of Congress from both sides of the aisle.

It is becoming apparent that the welfare reforms of 1996 did not anticipate how tightly access to food stamps was linked to access to welfare, said Representative Nancy L. Johnson, Republican of Connecticut and chairwoman of the House Ways and Means Subcommittee on Human Resources.

''We do think there's a problem here,'' Mrs. Johnson said. ''We need to see why state systems don't seem to capture the food-stamp eligible population very well.

''When you make a big change in one system it's going to have ramifications for other systems,'' Mrs. Johnson said. ''Some are positive. If people aren't getting food stamps because they're making more money, that's a good thing.''

She said her committee was planning to hold hearings on the matter this year.

So far analysts have been able to gauge only roughly how many eligible people have left the food stamp program even though they need the aid. Last year, for example, the Congressional Budget Office calculated that 2.9 million such people left the food stamp rolls from 1994 to 1997. The budget office report, a projection of economic conditions through 2008, proposed that the rising stigma and barriers surrounding welfare offices could be driving eligible people away.

Whatever the reasons, no one disputes how drastically the program has shrunk, both in the number of people enrolled and in the cost of providing the aid. Since 1994, the cost of the food stamp program has fallen to $18.9 billion from $24.5 billion, according to the Agriculture Department.

But some conservative poverty analysts say the drop in food stamp rolls does not indicate a problem. Robert Rector, who studies welfare for the Heritage Foundation, a private group in Washington, said the drop was simply a recovery from a period through the early 1990's when access to food stamps and other assistance became too easy.

''In the late 80's and early 90's you had this notion of one-stop shopping, getting people on as many benefits as you could,'' Mr. Rector said.''A lot of the decline now is hyped.''

He said that Congress would do well to make food stamps less readily available, by instituting work requirements and other rules similar to those already imposed on other forms of assistance.

But Agriculture Department officials are pushing the states to be sure their welfare offices are in line with Federal rules, which require prompt processing of food stamp applications.

On Jan. 29, the administrator of the food stamp program, Samuel Chambers Jr., sent a letter to the commissioners of welfare and food stamp program in every state urging them to review their policies to make sure they do not violate Federal law.

Federal officials had been particularly concerned with the situation in New York City, where newly revamped welfare offices, now called job centers, were delaying food stamp applications and often directing applicants to private food pantries instead.

After a Federal judge last month ruled that the city food stamp process violated Federal law, the city promised to change its practices.

In recent days, the city made another, unrelated policy change that city officials say will trim several thousand people from food stamp rolls. Under the 1996 package of Federal welfare changes, single able-bodied adults can be cut off from food stamps after three months if they do not work at least 20 hours a week or participate in a workfare program.

Counties can seek waivers to the work requirement if they have high unemployment rates, and for two years the counties in New York City had all sought the waivers, preserving the food aid.

This year, though, the city has chosen not to seek the waivers, so that city residents who are single and able to work must find work or lose their food stamps, said Deborah Sproles, a spokeswoman for the city Human Resources Administration.

Yesterday, private groups focused on poverty issues criticized the city's decision, saying it could put as many as 25,000 people at risk of hunger. But, Ms. Sproles said, ''this is part of the city's overall effort to start helping people gain self reliance.''●

TRIBUTE TO MRS. SHELBY JEAN (''JEANIE'') KIRK

● Mr. WARNER. Mr. President, I wish to take this opportunity to recognize and say farewell to an outstanding civil servant, Mrs. Jeanie Kirk, upon her retirement from the Department of the Navy after more than 38 years of dedicated service. Throughout her career, Mrs. Kirk has served with distinction, and it is my privilege to recognize her many accomplishments and to commend her for the superb service she has provided the United States Navy and our nation.

Mrs. Kirk's retirement on 3 May 1999 will bring to a close almost four decades of dedicated service to the United States Navy. From 1960 to 1966, Mrs. Kirk was assigned to the Navy's Personal Affairs Division. From 1966–1968, she was assigned to the Navy's Casualty Branch. For the next 31 years of her service, Mrs. Kirk was a member of the Navy Awards Branch, starting as the Assistant Branch Head in 1968 and becoming the Branch Head in 1978. Throughout her tenure, she has become a well-known and beloved figure among the fleet, from seamen to admirals, among veteran organizations, such as the Congressional Medal of Honor Society, and individuals, such as survivors of the Pearl Harbor attack. She has assisted countless individuals in tracking, reinstating or garnering appropriate awards and recognition for their service to their country, during wartime and during peace. The letters of gratitude and appreciation she has received over the years for her tireless and dogged research on behalf of thousands of sailors and their families and friends would fill many cabinet drawers. Congressmen and women have benefitted from her briefings on the specific details of awards for their constituents and heeded her advice. Her opinion on Navy awards is honored as golden—decisive and accurate—in the halls of Congress as well as the Pentagon.

She is a recognized authority on the topic of Navy awards from the first Congressional Medal of Honor to the most recent new awards, such as the NATO medal, which honors the service of more than 45,000 personnel as peacekeepers in Bosnia. As the Executive Agent for the Department of Defense, she was responsible for inaugurating the Pearl Harbor Commemorative Medal to recognize the 50th Anniversary of the attack on Pearl Harbor.

Mrs. Kirk has been awarded the Superior Civilian Service and Distinguished Civilian Service Awards. She is a native of Rectortown, Virginia, and currently resides in Middleburg, Virginia.

Mrs. Kirk will retire from the Department of the Navy on May 3, 1999, after thirty-eight years of dedicated service. On behalf of my colleagues, I wish Mrs. Kirk fair winds and following seas. Congratulations on an outstanding career.●

NATIONAL MISSILE DEFENSE

● Mr. KERRY. Mr. President, this bill calls upon the United States to take a momentous step—the deployment of a National Missile Defense system—on the basis of one, and only one criterion: technological feasibility. This bill gives no consideration to the ramifications of deploying such a system on U.S. security, political and diplomatic interests.

It is true that missile technology is proliferating more rapidly than we

could have predicted. And this is of grave concern to us all. Certainly, the proliferation of ballistic missile technology constitutes a serious threat to U.S. national security. The question before us is, Will deciding today to deploy a National Missile Defense system—as yet untested, unproven and un-paid for—advance our national security interests? The answer, in my view, is that it will not.

First, I believe this bill will undermine long-term U.S. national security interests, by placing too much emphasis on just one of the many threats we face today.

While the United States is enjoying a period of relative safety and security in world affairs, we must prepare to face a multitude of diverse challenges in the international security environment in coming years. These include: transnational threats, such as terrorism and drug trafficking; the proliferation of weapons of mass destruction; and the chaos of failed states, as we have seen in Somalia and the former Yugoslavia—just to name a few. The threat from ballistic missiles is one of many.

Ballistic missiles are a threat, because they are capable of delivering weapons of mass destruction to American soil. The United States has faced this threat for decades, posed by the nuclear arsenals of the Soviet Union and China. Russia and China maintain their ability to strike American soil. But even though both nations are today struggling through a period of great uncertainty, the threat to the United States of a ballistic missile attack from either nation is low.

The threat of a missile attack from a rogue state, such as North Korea or Iran, is obviously growing. Last fall, North Korea tested its new Taepo-Dong One missile, with a range of up to 3000 km. We also know the North Koreans are developing a Taepo-Dong Two missile, which could have a range two to three times greater. Pakistan has tested a 1500 km range missile. Iran is expected to have one of similar range in the near future.

But ballistic missiles are only one means of delivering weapons of mass destruction. Nuclear weapons can be delivered in trucks, ships, and suitcases; chemical and biological weapons can be delivered through the mail, dispersed in a crowded subway, or inserted into our water supply. These methods of delivery are far simpler, less costly, and far less detectable than ballistic missiles, and they pose a much more immediate threat to U.S. security. A National Missile Defense won't protect us from these threats.

The proposed NMD system would only allow us to defend ourselves against an unsophisticated long-range missile threat with a single warhead. We would not be able to defend against a missile that carried decoys along with the warhead. Multiple objects would readily defeat the proposed system. We would have no defense against a warhead containing chemical or biological agents divided into many small ''bomblets'' for better dispersion. This would simply overwhelm the NMD system. The NMD system would be ineffective against cruise missiles or missiles launched from air or sea platforms.

An NMD system also has very limited use as a deterrent to the threats we currently face. In the case of a ballistic missile attack, the perpetrator is readily identified, and U.S. retaliation could be swift and devastating. That alone is a serious deterrent, a much greater deterrent than a deployed NMD system. Deploying an NMD system would simply encourage potential adversaries to develop appropriate countermeasures or to pursue other, more effective means of attack. It is exactly this logic—that an NMD system would be more destabilizing than deterrent—that underpins our commitment to the ABM Treaty.

Which brings me to my second point. I oppose this bill because it will undermine decades of U.S. leadership in international efforts to reduce the nuclear danger.

A unilateral decision by the United States to proceed with a National Missile Defense would sound the death knell for the ABM Treaty, a development that is apparently quite welcome to many of my colleagues across the aisle. This is puzzling to me, because a U.S. signal that we intend to circumvent, violate or withdraw from the ABM Treaty would almost certainly kill prospects for Russian ratification of START II. This would delay any further reductions in the large remaining Russian nuclear force, a goal we have worked for decades to achieve.

I would remind my colleagues that, in 1991, the United States—under the leadership of President George Bush—reached agreement with Russia that it would legally succeed to all international treaties of the former Soviet Union. These include the UN Charter, the Nuclear Non-Proliferation Treaty, SALT/START, and others, as well as the ABM Treaty. If we refuse to recognize the validity of the ABM Treaty, we not only undermine the credibility of our past commitments to international arms control agreements—such as the Nuclear Non Proliferation Treaty—we also weaken U.S. leadership in future international efforts to stem the proliferation of weapons of mass destruction.

If we proceed with this legislation and deal a blow to international arms control efforts, we will have succeeded in fostering precisely the threats we intend to reduce. And furthermore, we can encourage this threat without ever deploying an NMD system, simply by establishing our intention to deploy an NMD system.

Finally, I have deep concerns about the technical feasibility, operational effectiveness and costs of the proposed NMD system.

I have consistently supported development of effective missile defense technology, and continue to do so. In particular, I have supported the development and deployment of effective theater missile defense systems, to protect our forces and our regional allies. But we have encountered tremendous technological challenges in trying to build defenses against these theater missile systems. We have spent billions of dollars and experienced many failures in our efforts to ''hit a bullet with a bullet.'' The THAAD system has experienced five successive failures. Yet, THAAD is much simpler to develop than NMD.

On cost, the Administration's FY 2000 budget request calls for an additional $6.6 billion in new funding for National Missile Defense. This would bring total FY 1999 - 2005 funding for NMD to $10.5 billion. But the Defense Department does not anticipate that we will be able to test key components of the proposed system until 2003. If we encounter problems with this system that are the least bit similar to those we have seen in testing THAAD, we can expect delays well beyond the projected deployment date of 2005—and costs far above the $10.5 billion we are currently contemplating. And, while I have every confidence that American technological know-how will eventually produce a feasible system, I wonder: At what cost, and with how much real benefit to our national security, will this technological marvel be achieved?

In addition to the financial costs of deploying a feasible NMD system, we must also acknowledge the opportunity costs that pursuing this project will entail. America's leadership in world affairs relies on ready military forces. And the fact is, if we dedicate tens of billions of dollars to developing a National Missile Defense system, we will not be able to devote the resources and energy we should to ensuring the long-term readiness of America's fighting forces. At a time when the Secretary of Defense and the Chairman of the Joint Chiefs of Staff have publicly and repeatedly expressed their concerns over our ability to attract and keep bright young men and women in the U.S. armed forces, I am not convinced that we should move NMD to the top of our list of defense priorities.

With so much at stake, it would be irresponsible for us today to commit to the deployment of a National Missile Defense system, without further consideration of the implications and potential consequences of that commitment. We must not devote these resources to defending against the wrong threat with the wrong system. We must not create a world where weapons of mass destruction proliferate because arms control agreements are no longer credible. And we must not become so focused on this one defense issue that we leave our nation defenseless against other, more imminent threats.

Mr. President, this legislation poses tremendous risks to our long-term national security interests.●

RECOGNIZING MR. LUTHER'S 3RD GRADE CLASS AT BEACHWOOD ELEMENTARY

• Mr. GORTON. Mr. President, I would like to recognize a truly outstanding feat by a 3rd grade class in Fort Lewis, Washington. Mr. Chris Luther's 3rd grade class at Beachwood Elementary School has not missed a spelling word on their weekly spelling tests for 25 weeks. Nearly a month ago, as my colleagues may remember, I announced an ''Innovation in Education Award'' program to recognize the important role individuals and communities play in the education of America's students. This class and their teacher, Mr. Luther, are perfect examples of this principle in action.

This is a classroom of average kids, all with different backgrounds and abilities. Yet, Mr. Luther has found a way to encourage and tutor these students so they are all accomplishing equally praiseworthy work. The key has not been some magical formula rather, the success of these students comes from a concerted effort by Mr. Luther to boost their self-esteem, to enhance their memory skills, and to impress upon every child in the classroom that learning is important. Those strategies combined with the individual effort of each of his students has clearly paid off.

Mr. Luther's creativity to engage his students in learning extends far beyond spelling. Each year, he produces a ''Math Relay'' that involves some 2000 students from 88 local schools. This remarkable gathering combines physical activity and competition with math questions and answers. Not only does the size of the event speak highly of its success but, the fact that Mr. Luther handles the mind-boggling logistics of an event this size himself is further cause for recognizing this fine educator.

I applaud Mr. Luther's initiative, creativity and ability to encourage his students to succeed. It is the work of educators like Mr. Luther and the efforts of students like those in Mr. Luther's 3rd grade class who are making education work across America. That is why it is my pleasure to recognize Mr. Luther and his third grade class for their accomplishments and it is why I hope my colleagues will join me in supporting local educators.•

THE TALIBAN'S ABUSE OF WOMEN AND GIRLS IN AFGHANISTAN

• Mrs. BOXER. Mr. President, yesterday, Senator BROWNBACK and I introduced a resolution, S. Res. 68, condemning the treatment of Afghan women and girls by the Taliban. I hope my colleagues will join us in condemning the systematic human rights violations that are being committed against women and girls in that war-torn nation.

The Taliban militia seized control of most of Afghanistan in 1996 and now control about 90 percent of the country, including the capital, Kabul. This group imposes an extreme interpretation of Islam practiced no where else in the world on all individuals. It is especially repressive on women.

Before the Taliban assumed control of much of Afghanistan, women were highly involved in public life. They held positions in the government and worked as doctors, lawyers, nurses, and teachers. The picture could not be more different today. Today, under Taliban rule women in Afghanistan are denied even the most basic human rights: they cannot work outside the home, attend school, or even wear shoes that make noise when they walk. They must wear a head-to-toe covering called a burqa, which allows only a tiny opening to see and breathe through. Parents cannot teach their daughters to read, or take their little girls to be treated by male doctors. Mr. President, women have been stoned to death, beaten, and otherwise abused for ''breaking'' these harsh laws.

The Physicians for Human Rights recently conducted a study of 160 women in Afghanistan and their findings are horrific. One of those women, a 20 year-old woman interviewed in Kabul had the following story:

> Eight months ago, my two-and-a-half year old daughter died from diarrhea. She was refused treatment by the first hospital that we took her to. The second hospital mistreated her [they refused to provide intravenous fluids and antibiotics because of their Hazara ethnicity, according to the respondent]. Her body was handed to me and her father in the middle of the night. With her body in my arms, we left the hospital. It was curfew time and we had a long way to get home. We had to spend the night inside a destroyed house among the rubble. In the morning we took my dead baby home but we had no money for her funeral.

The study found that 77 percent of women had poor access to health care in Kabul, while another 20 percent reported no access at all. Of those surveyed, 71 percent reported a decline in their physical condition over the last two years. In addition, there was also a significant decline in the mental health of the women surveyed. Of the participants, 81 percent reported a decline in their mental condition; 97 percent met the diagnostic criteria for depression; 86 percent showed symptoms of anxiety; 42 percent met the diagnostic criteria for post-traumatic stress disorder; and 21 percent reported having suicidal thoughts ''extremely often'' or ''quite often.'' In addition, 53 percent of women described occasions in which they were seriously ill and unable to seek medical care. 28 percent of the Afghan women reported inadequate control over their own reproduction.

S. Res. 68 calls on the President of the United States to prevent a Taliban-led government of Afghanistan from taking a seat in the United Nations General Assembly, so long as these gross violations of human rights persist.

Our resolution also urges the Administration not to recognize any government in Afghanistan which does not take actions to achieve the following goals: effective participation of women in all civil, economic, and social life; the right of women to work; the right of women and girls to an education without discrimination and the reopening of schools to women and girls at all levels of education; the freedom of movement of women and girls; equal access of women and girls to health care; equal access of women and girls to humanitarian aid.

Mr. President, I am shocked that women and girls in Afghanistan are suffering under these conditions as we approach the 21st Century. The United States has an obligation to take the lead in condemning these abuses.

I want to thank Senator BROWNBACK for joining me in introducing this legislation. He has been a strong voice for human rights and I know that he shares my passion for seeing an end to these abuses in Afghanistan.•

RESOLUTION TO COMMEND SENATOR J. ROBERT KERREY

• Mr. CHAFEE. Mr. President, I am pleased to join Senators DASCHLE and EDWARDS and the other cosponsors of this resolution commending our friend and colleague BOB KERREY on the 30th anniversary of the events giving rise to his receiving the Medal of Honor.

During my tenure as Secretary of the Navy, I had the honor and privilege of working with a great many brave men and women—citizens of all stripes who were willing to make the ultimate sacrifice to serve their country. One especially courageous naval officer was Lieutenant (j.g.) JOSEPH ROBERT KERREY.

Thirty years ago last Sunday in Vietnam, BOB KERREY lead a SEAL team mission aimed at capturing certain Viet Cong leaders. While leading this dangerous mission, he was badly wounded as a grenade exploded at his feet. Despite suffering massive injuries from this explosion and being in a state of near-unconsciousness, Lieutenant KERREY did not give up. He continued to lead his men, ordering them to secure and defend an extraction site.

For his heroism in combat, Lieutenant KERREY was awarded the Congressional Medal of Honor. And just what is this award? It is the highest award for valor in action that can be bestowed upon a member of the armed forces.

The Medal of Honor was created in the days of the Civil War through legislation sponsored by Senator James Grimes, chairman of the Senate Naval Committee, with the support of Navy Secretary Gideon Wells and President Abraham Lincoln. At that time, although serving in the military was required of all men, it had become clear that some servicemembers went ''above and beyond the call of duty.''

So, the first two hundred medals were presented to those who distinguished themselves in the Civil War by their gallantry in action and other

qualities. Less than thirty-five hundred medals have been authorized to date, and just 158 are living today.

One of those 158 living recipients is a colleague of ours here in the Senate—a colleague I will surely miss upon my retirement. I think all Senators, and indeed all Americans, ought to take this moment to recognize BOB KERREY's heroic action on that day in 1969, when he displayed immense bravery in the face of overwhelming adversity.

Today—thirty years later—BOB KERREY continues to exhibit the kind of dedication and honor that earned him the Medal of Honor. Just one example of Senator KERREY's distinction as a Senator is the countless hours he had devoted to curbing the politically popular entitlement programs that have contributed so greatly to our staggering national debt. Taking on this issue isn't the easiest thing for an elected official to do—it is a task fraught with political danger. But BOB KERREY knows that it's the right thing to do for our nation, and that is why he continues to persevere.

My colleagues here today will provide numerous other examples of BOB KERRY's accomplishments as a U.S. Senator. Given his heroism during my tenure as Navy Secretary, these accomplishments come as no surprise. I am proud to be a cosponsor of this resolution, and thank Senators DASCHLE and EDWARDS for their leadership in bringing it to the Senate floor.●

NATIONAL MISSILE DEFENSE ACT

● Mr. BAYH. Mr. President, I rise today to discuss yesterday's overwhelming Senate vote in favor of the National Missile Defense Act of 1999. I was pleased to join with many of my colleagues in support of this legislation that will help to ensure that the United States does everything it can to defend itself from the threat of limited ballistic missile launches, both accidental and intentional. This legislation, which makes it the policy of the United States to deploy an effective national missile defense when technologically possible, takes an important first step toward providing a significant defense for all citizens of the United States against limited ballistic missile attacks.

As most of my colleagues know, today, the United States faces a serious, credible, and growing threat from limited ballistic missiles that could potentially carry nuclear, biological or chemical payloads. This new threat is not from Russia, our partner in many important arms control agreements. Instead, this threat comes from the increasing proliferation of ballistic missile technology. In particular, certain rogue states pose the greatest threat as they continue to push for—and make great progress in acquiring—delivery systems that directly threaten the United States. I do not believe that the threat from these rogue states, most of which have demonstrated a complete disregard for the well-being of their own citizens as they relentlessly pursue the acquisition of this ballistic missile technology, can be understated.

Mr. President, this new and emerging ballistic missile threat from rogue states was dramatically highlighted by the August 1998 Taepo Dong I missile launch in North Korea. This North Korean missile launch demonstrated important aspects of intercontinental missile development. Most importantly, the missile included multiple stage separation and the use of a third stage. This use of a third stage, in particular, was surprising to our intelligence community. Using a third stage gives this missile a potential range in excess of 5,500 kilometers, thus effectively making the Taepo Dong I an intercontinental ballistic missile.

Unfortunately, America's intelligence community did not expect the North Korean's to have the capability to make such a three stage missile. In fact, the most recent U.S. intelligence reports made prior to this Taepo Dong I launch claimed that no rogue state would have this capability for at least ten years.

Even before the North Koreans launched their Taepo Dong I missile last August, there were other disturbing reports that predicted the eminent ballistic missile threat to the United States. In July, the Commission to Assess the Ballistic Missile Threat to the United States, known as the Rumsfeld Commission, released its report. The Rumsfeld Commission was a bipartisan commission headed by former Defense Secretary Rumsfeld and other well respected members in the defense community. The Rumsfeld Commission warned of the growing ballistic missile threat that rogue states posed to the United States. The Rumsfeld Commission unanimously found that, ''concerted efforts by a number of overtly or potentially hostile nations to acquire ballistic missiles with biological or nuclear payloads pose a growing threat to the United States, its deployed forces and its friends and allies.''

The Commission reported further that, ''The threat to the U.S. posed by these emerging capabilities is broader, more mature and evolving more rapidly than has been reported in estimates and reports by the Intelligence Community.''

The launch of the Taepo Dong I missile and the findings of the Rumsfeld Commission are very troubling. It is clear that ballistic missile technology is progressing rapidly and proliferating just as rapidly and, consequently, the threat to the United States is real. It is no longer a perceived threat or a potential threat. It is not a threat that may come ten years down the road. This threat is tangible and it is here now. I believe that we have a moral responsibility to all Americans to do everything possible to defend the United States from this threat. Supporting this legislation, in my opinion, is an important step in providing a solid defense for the United States against limited ballistic missile attacks.

Moreover, S.257 is a responsible way to address the threat that the United States faces. In contrast to previous legislative efforts, most of which micro managed this policy by setting a fixed date for deployment and by dictating the exact type of missile defense system to be deployed, this legislation more properly lays out broad U.S. policy. The bill simply—but clearly—calls for deployment of an effective system once the technology is possible. No date for deployment is set. No requirement for a specific type of ballistic missile defense is outlined. By not dictating such requirements, this legislation responsibly allows for flexibility for our military experts to develop and deploy the best possible missile defense system. This language helps ensure that the United State will not rush into deployment with a substandard system—at a cost of billions of taxpayer dollars—just to be able to say we've deployed a limited missile defense.

Instead, this legislation will help ensure that the United States has deployed a system that has been thoroughly tested and proven operationally effective. I fully support this flexible approach.

Mr. President, let me briefly address the issue of cost. A lot has been said about how the original draft of this legislation could have bypassed future deliberations about how much the Pentagon should spend on missile defense. In effect, many critics of this legislation believed this bill would simply be providing a blank check for all future missile defense development and deployment efforts. I don't believe that is the case. This legislation does not preclude such important funding deliberations. However, I was very glad to support the amendment that Senator COCHRAN offered yesterday to make it absolutely explicit that Congress will fully debate the cost implications of a missile defense system in all annual defense authorizations and appropriations proceedings in the future. I plan to fully weigh the costs and benefits of missile defense in comparison to all other defense programs and to assess all potential threats to the United States at the time of those deliberations.

Finally, I am also pleased that the bill now calls for the United States to continue working with the Russians to reduce nuclear weapons. I strongly supported the amendment offered by Senator LANDRIEU which added this policy statement to S. 257. The United States and Russia have made great progress in reducing nuclear weapons over the past decade and both countries need to continue to do so. I think this statement of policy calling for continued efforts to reduce nuclear weapons is extremely important. We need to make it clear to ourselves, to all American citizens, to

our allies, and to the world that not only does the United States plan to defend itself from the threat of limited ballistic missile attacks, but that the best protection we can offer our nation is a world in which the fewest possible weapons of mass destruction exist.

Again, I thank Senator COCHRAN and all the cosponsors for introducing this important piece of legislation and for allowing the modifications to be made that garnered broad bipartisan support. I believe it is entirely appropriate for Congress to make it the policy of the United States to deploy an effective missile defense when technologically possible. The National Missile Defense Act will help allow this Government to keep its most important covenant with the American people—to protect their life and liberty.

DRUG FREE BORDERS ACT OF 1999

• Mr. MCCAIN. Mr. President, I rise in support of the Drug Free Borders Act of 1999, of which I am an original cosponsor. This legislation, identical to S. 1787 from the 105th Congress, authorizes funding for advanced sensing equipment for detecting illegal drugs before they can cross our border and emerge on the streets of America's cities. I would like to commend my good friend, Senator PHIL GRAMM, for once again taking the lead in introducing the Drug Free Borders Act during the 106th Congress.

Those of us who represent States bordering Mexico are particularly sensitive to the dangers implicit in failing to properly monitor traffic crossing that border. Yet, we also recognize that Mexico is one of our largest trading partners, and a country with which it is in our best interest to maintain as open a border as possible. It is a careful balancing act, but one that merits our greatest efforts.

While the effects of the North American Free Trade Agreement are being closely monitored by supporters and critics of that pact alike, it has become clear that NAFTA represents an important component of our international economic policy, contributing to the creation of 300,000 new American jobs since its passage. The agreement only went into effect in 1994, and it will likely be several more years before its full impact can be determined. The results from the first five years, however, unambiguously demonstrate that the agreement has a net positive impact on the U.S. economy.

But this bill is not about trade, it is about drugs, and about the measures that must be taken to ensure that we are doing everything we can to stem the flow of illegal drugs into our cities without impeding the flow of legitimate commerce. The key to finding that balance is the procurement of the equipment needed to expeditiously scan incoming cargo, not just on the U.S.-Mexican border, but at our other ports of entry as well—and I should point out the emphasis in this bill on your maritime ports of entry. The Drug Free Borders Act of 1999 represents an important and substantive step in that direction. Authorizing over $1 billion to beef-up Customs Department operations along our borders with Mexico and Canada, as well as at the maritime ports of entry, this legislation is a sound, responsible approach to enhancing this country's capabilities to interdict the flow of drugs before they reach our children.

Mr. President, I urge the support of all of my colleagues for the Drug Free Borders Act of 1999. This bill passed both Chambers of Congress last year, but fell victim to the vagaries of time, as the 105th Congress adjourned while the bill was still in conference. Its passage by both the Senate and the House of Representatives, however, clearly illustrates its broad bipartisan support, and I look forward to its passage into law during the current session of Congress.•

DESIGNATING MARCH 25, 1999, AS ''GREEK INDEPENDENCE DAY''

Mr. STEVENS. Mr. President, I ask unanimous consent that S. Res. 50 be discharged from the Judiciary Committee, and further, that the Senate now proceed to its immediate consideration.

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

The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 50) designating March 25, 1999, as ''Greek Independence Day: A National Day of Celebration of Greek and American Democracy.''

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. STEVENS. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear in the RECORD.

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

The resolution (S. Res. 50) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 50

Whereas the ancient Greeks developed the concept of democracy, in which the supreme power to govern was invested in the people;

Whereas the Founding Fathers of the United States of America drew heavily upon the political experience and philosophy of ancient Greece in forming our representative democracy;

Whereas the founders of the modern Greek state modeled their government after that of the United States in an effort to best imitate their ancient democracy;

Whereas Greece is one of the only 3 nations in the world, beyond the former British Empire, that has been allied with the United States in every major international conflict this century;

Whereas the heroism displayed in the historic World War II Battle of Crete epitomized Greece's sacrifice for freedom and democracy as it presented the Axis land war with its first major setback and set off a chain of events which significantly affected the outcome of World War II;

Whereas these and other ideals have forged a close bond between our 2 nations and their peoples;

Whereas March 25, 1999, marks the 178th anniversary of the beginning of the revolution which freed the Greek people from the Ottoman Empire; and

Whereas it is proper and desirable to celebrate with the Greek people and to reaffirm the democratic principles from which our 2 great nations were born: Now, therefore, be it

Resolved, That the Senate—

(1) designates March 25, 1999, as ''Greek Independence Day: A National Day of Celebration of Greek and American Democracy''; and

(2) requests the President to issue a proclamation calling upon the people of the United States to observe the day with appropriate ceremonies and activities.

DESIGNATING MARCH 21 THROUGH MARCH 27, 1999, AS ''NATIONAL INHALANTS AND POISONS AWARENESS WEEK''

Mr. STEVENS. Mr. President, I ask unanimous consent that S. Res. 47 be discharged from the Judiciary Committee, and further, that the Senate now proceed to its immediate consideration.

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

The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 47) designating the week of March 21 through 27, 1999, as ''National Inhalants and Poisons Awareness Week.''

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. STEVENS. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be upon the table, and that any statements relating to S. Res. 47 appear in the RECORD.

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

The resolution (S. Res. 47) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 47

Whereas the National Inhalant Prevention Coalition has declared the week of March 21 through March 27, 1999, ''National Inhalants and Poisons Awareness Week''.

Whereas inhalant abuse is nearing epidemic proportions, with almost 20 percent of all youths admitting to experimenting with inhalants by the time they graduate from high school, and only 4 percent of parents suspecting their children of inhalant use;

Whereas according to the National Institute on Drug Abuse, inhalant use ranks third behind the use of alcohol and tobacco for all youths through the eighth grade;

Whereas the over 1,000 products that are being inhaled to get high are legal, inexpensive, and found in nearly every home and every corner market;

Whereas using inhalants only once can lead to kidney failure, brain damage, and even death;

Whereas inhalants are considered a gateway drug, leading to the use of harder, more deadly drugs; and

Whereas because inhalant use is difficult to detect, the products used are accessible and affordable, and abuse is so common, increased education of young people and their parents regarding the dangers of inhalants is an important step in our battle against drug abuse: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week of March 21 through March 27, 1999, as ''National Inhalants and Poisons Awareness Week'';

(2) encourages parents to learn about the dangers of inhalant abuse and to discuss those dangers with their children; and

(3) requests that the President issue a proclamation calling upon the people of the United States and interested groups to observe such week with appropriate ceremonies and activities.

APPOINTMENT OF CONFEREES—H.R. 800

Mr. STEVENS. Mr. President, I move that the Chair be authorized to appoint conferees on the part of the Senate with respect to H.R. 800, the Ed-Flex legislation.

The motion was agreed to, and the Presiding Officer appointed Mr. JEFFORDS, Mr. GREGG, Mr. FRIST, Mr. DEWINE, Mr. ENZI, Mr. HUTCHINSON of Arkansas, Ms. COLLINS, Mr. BROWNBACK, Mr. HAGEL, Mr. SESSIONS, Mr. KENNEDY, Mr. DODD, Mr. HARKIN, Ms. MIKULSKI, Mr. BINGAMAN, Mr. WELLSTONE, Mrs. MURRAY, and Mr. REED of Rhode Island conferees on the part of the Senate.

MEASURE READ THE FIRST TIME—H.R. 975

Mr. STEVENS. Mr. President, I understand that H.R. 975 was received from the House and is at the desk.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The legislative clerk read as follows:

A bill (H.R. 975) to provide for a reduction in the volume of steel imports, and to establish a steel import notification and monitoring program.

Mr. STEVENS. Mr. President, I now ask that the bill be read for the second time, and I object to my own request.

The PRESIDING OFFICER. Objection is heard.

ORDERS FOR FRIDAY, MARCH 19, 1999

Mr. STEVENS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:45 a.m. on Friday, March 19. I further ask consent that on Friday, immediately following the prayer, the Journal of the proceedings be approved to date and the morning hour be deemed to have expired, the time for the two leaders be reserved, and the Senate then resume consideration of this bill, the supplemental appropriations bill.

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

PROGRAM

Mr. STEVENS. Mr. President, for the information of all Senators, tomorrow morning the Senate will resume the supplemental appropriations bill.

At 9:45, I intend to call up an amendment on the list related to ethical standards. All Members should be on notice that a rollcall vote will occur on or in relation to that amendment shortly after the Senate convenes at 9:45. The vote should begin as early as 9:50 or 9:55 Friday morning. Any Member who intends to offer additional amendments should be prepared to remain on Friday in order to offer those amendments.

In addition, it is expected that on Monday the Senate will debate the Kosovo issue beginning at approximately noon and will resume the supplemental appropriations bill sometime late that afternoon. However, no rollcall votes will occur during Monday's session.

ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

Mr. STEVENS. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:33 p.m., adjourned until Friday, March 19, 1999, at 9:45 a.m.

NOMINATIONS

Executive nominations received by the Senate March 18, 1999:

DEPARTMENT OF DEFENSE

BRIAN E. SHERIDAN, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF DEFENSE, VICE HENRY ALLEN HOLMES.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK(*)) UNDER TITLE 10, U.S.C., SECTIONS 624, 628, AND 531:

To be major

*HUSAM S. NOLAN, 0000
STEVEN C. SIEFKES, 0000
JAMES H. WALKER, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C, SECTION 601:

To be lieutenant general

MAJ. GEN. DONALD G. COOK, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. LANCE W. LORD, 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 531, 624, AND 628:

To be major

THOMAS M. JOHNSON, 0000
FRANCIS J. LARVIE, 0000
*ANTHONY P. RISI, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADES INDICATED IN THE UNITED STATES ARMY AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 531, 624, AND 628:

To be colonel

RANDALL F. COCHRAN, 0000
RUSSELL B. HALL, 0000

To be major

*REGINA K. DRAPER, 0000

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

ALFRED C. FABER, JR., 0000
MARGARET J. SKELTON, 0000
EDWARD L. WRIGHT, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

DALE F. BECKER, 0000
JAMES R. O'ROURKE, 0000
JOHN J. SCANLAN, 0000
JOHN F. STOLEY, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

DENTAL CORPS

COL. KENNETH L. FARMER, JR., 0000

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be colonel

HAROLD E. POOLE, SR., 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

DON A. FRASIER, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

LEO J. GRASSILLI, 0000