United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 106th CONGRESS, FIRST SESSION

Vol. 145 WASHINGTON, MONDAY, MAY 24, 1999 No. 75

Senate

The Senate met at 11 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

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

Almighty God, who knows us as we really are and whose grace gives us the courage to change and become more of what we were meant to be, we thank You for this quiet moment in which no secrets are hidden from You, and our deepest longings are revealed. As we begin this new work week, wash out of our minds any negative thinking or any emotions resistant to Your will. Help us to form and hold the picture of ourselves as servant-leaders filled with Your power, patriotism, and enthusiasm. May we completely be absorbed with what is best for our Nation and work together with a cooperative attitude. Free us of the pride that thinks too much about the perpendicular pronoun. We want to be motivators rather than manipulators of the people around us. May this be a great day of progress for the work of the Senate. To that end, bless the Senators with Your grace and goodness. Through our Lord and Savior. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

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

Mr. HAGEL. I thank the Chair.

SCHEDULE

Mr. HAGEL. This morning the Senate will be in a period of morning business until 1 p.m. Following morning business, the Senate will begin consideration of S. 1059, the Department of Defense authorization bill. Amendments to the defense authorization bill are expected to be offered during today's session of the Senate. If votes are ordered with respect to S. 1059, those votes will be stacked to occur at 5:30 p.m. this evening. As always, Senators will be notified as votes are ordered.

It is the intention of the leader to complete action on the defense authorization bill this week as well as the defense appropriations bill. Therefore, Senators can expect votes into the evening throughout the week.

I thank my colleagues for their attention and cooperation.

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

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

The legislative assistant proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 1 p.m. with Senators permitted to speak therein for up to 10 minutes. The time until 12 noon shall be under the control of the Senator from Illinois, Mr. DURBIN, or his designee, with 20 minutes of the time to be under the control of the Senator from North Dakota, Mr. CONRAD.

Mrs. FEINSTEIN. Mr. President, I designate myself to control approximately 10 minutes of time.

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

Mrs. FEINSTEIN. I thank the Chair.

WORK INCENTIVES IMPROVEMENT ACT

Mrs. FEINSTEIN. Mr. President, I wish to speak for a few moments today about a bill that many Senators, some 70 of us, believe will improve the lives of millions of disabled Americans. The Work Incentives Improvement Act would allow disabled adults to enter the workforce without placing their Medicaid or Medicare benefits at risk. I particularly thank Senators KENNEDY, JEFFORDS, MOYNIHAN, and ROTH for their outstanding leadership in crafting this legislation. I am very proud to be a cosponsor.

Today, more than 8 million working-age adults receive disability payments from the Federal Government for conditions that range from paralysis to multiple sclerosis. A recent Harris poll showed that 72 percent of these disabled people would really like to work, but disabled Americans face a terrible Catch-22. The Federal Medicaid program won't cover people who continue to work and remain disabled. So if a disabled adult earns more than $500 a month, he or she loses their Medicaid. That is the rub.

The eligibility criteria for Medicaid benefits have had a devastating effect on disabled Americans. The Medicaid program equates having a disability with being poor and unable to work, furthering inaccurate stereotypes about disability. To make things worse, the Medicaid program ensures that disabled people who do work end up having to shoulder the cost of their care by themselves.

For all but the best-off disabled Americans, these costs are prohibitive. People with serious medical conditions can't pay the out-of-pocket costs of their medical treatment. These costs can run into the tens of thousands of dollars each year. In other words, if a disabled American does have a job, the minute that disabled American earns more than $500 a month, they fall off a cliff and they lose their Medicaid or

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

Printed on recycled paper.

their Medicare. So millions of disabled Americans remain dependent on cash assistance from the Federal Government simply because they can't work and keep Medicaid at the same time.

Last year, I wrote to President Clinton urging a remedy to the situation. I am proud to be an original cosponsor of the Work Incentives Improvement Act. This bill allows Americans with disabilities to enter the workforce without losing their health coverage under Medicaid or Medicare. Even if disabled people are working in full-time jobs with health benefits, they will be able to buy their Medicaid coverage for medical expenses that their regular insurance does not cover.

In addition, the Work Incentives Improvement Act sets up a new system called Ticket to Work, to provide better job training and placement services for the disabled. The Work Incentives Improvement Act will enable disabled Americans to pursue self-sufficiency, to achieve independence, and to contribute in meaningful ways to our economy. It is certainly an idea whose time has come. That is why over 70 Senators have signed on as cosponsors.

Unfortunately, the Senate has not had the chance to vote on this important legislation. The reason I am on the floor today, as well as others who I hope will be coming to the floor, is to urge Senate Majority Leader TRENT LOTT to bring the Work Incentives Improvement Act to the Senate floor for a vote soon. No one should have to choose between a job and their health. By preserving Federal health benefits for disabled workers, we can avoid the Catch-22 and, most importantly, we can help the disabled to live full and healthy lives.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

Mr. GRAMS. 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. GRAMS. Mr. President, I ask unanimous consent that I be allowed to speak for up to 25 minutes in morning business.

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

(The remarks of Mr. GRAMS pertaining to the introduction of S. 1102, S. 1103, S. 1104 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. GRAMS. I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant called the roll.

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

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

CRISIS IN THE FARM ECONOMY

Mr. CONRAD. Mr. President, I rise today to talk about the continuing crisis in the farm economy. I have just been home the weekend before last. Everywhere I went in my State, people were saying to me: Senator, something has to be done. We are facing a crisis in rural America. The prices we are getting for things continues to be at very low levels—in fact, we have the lowest prices in 53 years—and at the same time everything we buy is going up. That is putting us in a cost/price squeeze that is truly strangling American farmers.

The result is going to be devastating unless there is a response. Last year, the Federal Government did respond with a $6 billion program of disaster assistance that made a significant difference in rural America. About half of that money went for a support, a supplement that gave farmers some assistance when prices were collapsing. There was also a second major element for a disaster program, natural disasters around the country that had dramatically reduced farm income. That program made a significant difference.

Those same conditions continue this year. Prices again are at very low levels, and we have seen natural disasters once again strike rural America. In fact, we now know to deliver on the promise we made last year on a disaster program is going to require more money than we appropriated. We appropriated about $3 billion for that purpose. We now know delivery on the program we passed is going to cost another $1.5 billion, because the signup of agricultural producers that is now completed indicates to us there are far more who are eligible than we thought when we wrote the program. That is, of course, because we were faced with a moving target. We were faced with additional natural disasters that deepened and worsened and made more farmers eligible.

I believe we need that $1.5 billion to keep the promise made last year and another $2.8 billion that will be necessary to give the same kind of income support we provided last year, about a 50-percent AMTA supplemental.

Why are these necessary? What is happening out there so those of us who represent farm country come to our colleagues and talk about a crisis in rural America? Perhaps the best way of showing what has happened is this chart that shows what has happened, over a 53-year period, to farm prices. As we can see, with spring wheat and barley prices from 1946 to 1999, we are now at the lowest level for barley and wheat prices in 53 years. That is the hard reality our farmers are coping with, the lowest prices in 53 years. We know that earlier this year hog prices fell to 8 cents a pound. It costs 40 cents a pound to produce a hog.

To put these prices into some perspective, these are per bushel. We are down to a price per bushel of $2.60 to $2.70 for wheat. I know a bushel does not mean a lot to many people in our very urban society today, but a bushel of wheat weighs 56 pounds. So farmers are getting 5 cents a pound—actually something less than 5 cents a pound—for the product they produce. There is no way you can make it when you are getting 5 cents a pound for a product that costs at least 10 cents a pound to produce. But that is what is happening to farmers.

Let me go to the next chart that shows what is happening to wheat prices received by farmers in relationship to cost. This green line shows the cost of production in 1997. You can see it is just about $5 a bushel. That is the cost. That is the best estimate of what it costs across the country to produce a bushel of wheat, just above $5. You can see the last time farmers were getting above $5 was back in 1996. Since that time, in 1997, it was far below the cost of production, and it has done nothing but get worse through 1998 and on into 1999. We are far below the cost of production. As I indicated, we are running, down here at $2.60 a bushel. The cost of production is over $5. It is no wonder farmers are saying we desperately need a Federal response.

Why is it a Federal responsibility? For the entire history of the United States, we have recognized the special role of agriculture. We have recognized it is subject to dramatic swings in both production and prices, because, first of all, it is a product that depends on the weather, and the weather is very unpredictable, as we have seen across the country for year after year after year. On top of that, we are subjected to dramatic price swings. In the last several years, we have been influenced by the collapse in Asia; we lost one of our biggest customers. We have also seen a financial collapse in Russia. Of course, Russia was a key customer of the United States. Those two things have had a dramatic and adverse impact on price. You can see it here—prices down, down, down—and the cost of production staying up. That has put our farmers at an extreme disadvantage.

While farmers are paying more but receiving less, it is not surprising, then, they find themselves in a cost/price squeeze. This green line shows the prices farmers paid for various inputs. As you can see, the prices farmers had been paying had been going up rather steadily. They have actually leveled off in the last 3 years. But look at what the prices that farmers have been receiving look like. That is this red line. We can see it peaked right at the time we passed the 1996 farm bill.

The 1996 farm bill changed everything. It said, instead of adjusting what Government provides by way of assistance when prices fall, we will no longer do that. The new farm bill said we are going to have fixed payments that are sharply reduced year after year no matter what happens to prices.

Here is the pattern we see: the prices farmers pay for goods they use to produce products going up; the prices

they receive going down dramatically. The result is this enormous gap between what they are able to buy for, what they have to pay to receive goods, and what they are able to get when they sell their goods. This dramatic gap, this chasm now, between the prices farmers pay for what they have to buy and what they get for what they sell has opened up into such a large difference that literally tens of thousands of farm families are threatened.

It would be one thing if the United States was alone in this world, if we did not have competitors to worry about, but we do have competitors. The Europeans are our chief competitors, and it is very interesting to see what they are doing.

At the very time when we have dramatically cut support for farmers, cut support at the very time they are in the greatest need, because the gap between what they pay for and what they get has opened up in such a very serious way, we have cut dramatically the level of support we provide our farmers. In the last farm bill, we cut in half the support we provide our farmers. If we look at what our competitors, the Europeans, are doing, we see quite a different pattern.

Our European competitors are spending far more than we are to support their farmers. If we go back to 1996, we can see the red bar is what Europe is spending in direct support; the yellow bar is what we are spending. We can see the pattern all through 1997, 1998, 1999, the year 2000—and these are projections for 2001 and 2002—that our competitors are providing much more support to their producers than we are providing ours.

I conclude by saying we have a crisis in rural America. It requires a Federal response. I hope very much before this year has concluded that we have said farming is important in this country, that we understand it is in crisis, and that we are prepared to respond.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER (Mr. ROBERTS). The time between 12 noon and 12:30 p.m. shall be under the control of the distinguished Senator from Utah, Mr. BENNETT. The Senator is recognized.

SUSPEND BOMBING IN KOSOVO

Mr. BENNETT. Mr. President, I rise to call for a suspension of the bombing in Kosovo, not because of anything Milosevic has done, such as the release of three American servicemen; not because of differing opinions within NATO, such as those currently being expressed by the Italians and the Germans; not because of the inadvertent damage done to accidental targets, such as the Chinese Embassy; and not because of any personal animus or distrust of any individuals in this administration. No; I oppose continuation of the bombing in Kosovo because it has not worked. It is not working and shows no signs of working in the future.

The bombing has been of no help to the Kosovars, hundreds of thousands of whom have lost their homes, their neighbors, their children and perhaps even their lives while the bombing has gone on. It has been of no help to the Albanians or the Macedonians who have seen hundreds of thousands of refugees flood cross the borders into their ill-equipped countries. It has been of no help to NATO, an alliance that has seen its military stocks drawn down to dangerously low levels with no effect on the atrocities going on in the killing fields. And the bombing has been of no help to our relationships with nations outside of NATO, particularly Russia and China, who have vigorously opposed our decision to proceed.

Again, in short, the bombing has not worked, even though we have persisted for a longer time than we bombed in Desert Storm. My call for suspending the bombing comes from the modern wisdom that says: If at first you don't succeed, try something else.

There are those, including my colleagues on the Senate floor, commentators and columnists for whom I have the utmost respect, who say we cannot even consider suspension of the bombing. We are at war, they say; we must press on to victory. Anything else would be dishonorable, and on a practical geopolitical level, would send the wrong signal to others who might choose to confront us in the future.

Such language is often called Churchillian, echoing the electrifying rhetoric of the indomitable prime minister speaking in the darkest days of World War II.

No one has a higher regard for the magnificent rhetoric and the deeds of Winston Churchill than I, but, to me, the mantra, ''Because we're in, we have to win,'' is more suitable for a bumper sticker than it is for Winston Churchill.

Let me take you to a Churchillian episode that I think applies here, and it comes not from the darkest days of World War II but World War I.

Those who remember their history will remember that Winston Churchill fell into great disregard during World War I as a result of his sponsorship of the Dardanelles operation. He was removed from any position of responsibility. But because he was still an officer in the British Army, he agreed, indeed sought for, the opportunity to go to the front in France. And so, as Major Churchill, he went to the front, and unlike most British officers of the time, he really went to the front. He went all the way to the front lines and saw for himself over a period of time the horrors and the futility of trench warfare. He saw it firsthand, and he came away convinced that it was not working.

When he returned to England, he became Minister of Munitions and put his full support and strength behind searching for an alternative. If you will, he put aside the patriotic rhetoric of his time and sought for a policy that would work. William Manchester, in his biography of Churchill called the ''Last Line,'' refers to Churchill as the father of the tank. It was Winston Churchill who caught the vision of the fact that you could do something different and created the modern tank, or created the prototype of what became the modern tank, and revolutionized warfare, eliminating the failures of trench warfare.

If at first you don't succeed, try something else. The legacy of Winston Churchill was that he was willing to try something else when he saw the reality of the failure on the ground. I think, frankly, that is the Churchillian example we should seek to follow now: Suspend the bombing and try something else.

There are many suggestions on the table. The one, of course, we hear the most these days is send in the ground troops. To those who urge this, I ask, as I asked when the bombing was proposed in the first place: Will it work? Will it accomplish our goals? And with that question, we get the next obvious question: What are our goals?

When Secretary Madeleine Albright made the case for the bombing to the Senators in the Capitol, she told us if we did not bomb, the following would happen: First, there would be brutal atrocities and ethnic cleansing throughout all of Kosovo with tens of thousands of people being slaughtered and hundreds of thousands driven from their homes.

Second, she said there will be a flood of refugees across the borders into neighboring countries, swamping their already fragile economies.

Third, she said there will be splits within NATO. This alliance will be torn apart by disagreements.

And finally, she said Milosevic will strengthen his hand on his local political situation.

That was 8 weeks ago. Now, 8 weeks later, the bombing has failed to prevent any of those results. All four of them have taken place—the ethnic cleansing and the brutality and the atrocities have gone on; the refugees have appeared across the borders; NATO is split with arguments going on among its top leaders; and Milosevic has been strengthened as the leader, martyr, hero, if you will, of the Yugoslavs. We have not achieved a single goal that the bombing set out to accomplish. I come back to the same question: What are our new goals?

As best I can understand them, from the various statements that have been made, one list of the new goals would be as follows: No. 1, removal of all Serbian influence in Kosovo; No. 2, a return of the Kosovars physically to their land; No. 3, a rebuilding of their homes and villages; and No. 4, an international police force in there for an indefinitely long period of time to guarantee that their homes will always be protected.

Let us accept those goals for just a moment. I ask the same fundamental question I asked in the beginning with respect to bombing. Will it work? Will continuation of the bombing achieve these four new goals when it did not achieve the four old ones? And what about ground troops? Will ground troops achieve these new goals?

On the first question, as to whether the continuation of the bombing will achieve these new goals, there is disagreement from the experts. In this morning's Washington Post, General Short says: ''Yes, we will see the achievement of these goals within a matter of months.'' Last Friday, the Defense Department spokesman Kenneth Bacon said, ''No, there was no indication that bombing would achieve the goals.''

I ask this fundamental humanitarian question: Do we have to continue to destroy the economy of Yugoslavia, depriving the civilian population of power and water, as we did over the weekend, raising the specter of the epidemic spread of typhoid while we decide who is right, while we decide which opinion is the correct one? Can we not suspend the bombing while that debate goes on?

With respect to ground troops, and those who say ground troops are the only answer, those who are calling for an invasion and an indefinitely long occupation of part of Serbia, that part known as Kosovo, to them I would refer the words of Daniel Ellsberg that appeared in the New York Times last Friday. I find them chilling. I would like to read them now at some length. I cannot paraphrase them and put them in any better form than Mr. Ellsberg himself. He says, referring to a ground invasion in Kosovo:

> . . . I believe, it would be a death sentence for most Albanians remaining in Kosovo.
>
> By all accounts, it would take weeks to months to deploy an invasion force to the region once the decision to do so was made, and Slobodan Milosevic already has troops there fortifying the borders. Wouldn't the prospect of an invasion lead him to order his forces in Kosovo to kill all the military-age male Albanians and hold the rest of the population as hostages rather than continuing to deport them?

A very, very important question.

Daniel Ellsberg goes on:

> We don't know how many male Kosovars of military age—broadly, [those] from 15 to 60 years old—have been killed already.

He says:

> But even if the number is in the tens of thousands . . . that would mean that most of the men were still alive. Facing invasion, would Mr. Milosevic allow any more men to leave Kosovo to be recruited by the K.L.A., or to live to support the invasion? The Serbs could quickly slaughter 100,000 to 200,000 male Kosovars. (In Rwanda five years ago, an average of 8,000 civilians a day were killed for 100 days, mostly with machetes.)
>
> Obviously, Mr. Milosevic and his subordinates are brutal enough to do that. If they haven't done it already (and there is no testimony [to suggest] that they have on that scale) it may well be because they fear that such an annihilation would make an invasion inevitable. A commitment now to ground invasion would remove that deterrent, just as the commitment in March to begin bombing in support of an ultimatum and the consequent withdrawal of international monitors removed an implicit deterrent against sweeping ethnic cleansing and expulsion.
>
> As for to the remaining civilians in Kosovo—women, children and old people—tens of thousands of them could be used against the invasion as human shields, in a way never before seen in warfare. Fighting in built-up areas, NATO troops would probably be fired on from buildings that were packed on every floor with Kosovar women and children. Using the traditional means—explosives, artillery and rockets—to destroy those buildings would make NATO forces the mass executioners of the people we were fighting to protect.

The column goes on. I shall not continue with it except to summarize the grim conclusion. Mr. Ellsberg says:

> . . . We bombed Vietnam for seven and a half years in pursuit of goals we refused to compromise and never secured.

I find that a chilling summary in terms of some of the language we are hearing now: We must never compromise until our goals are secured. The first goals laid out were not secured. We now have a new set of goals and we are determined once again not to give in.

When I first went into the briefing room to hear Secretary Albright, Secretary Cohen, National Security Adviser Berger, and General Shelton give us the justification for proceeding in this area, I went in with no preconceptions one way or the other. Contrary to assumptions that have been made in the press about those of us who voted against the bombing, I did not carry any impeachment baggage into that briefing.

I have a history of backing President Clinton when I think he is right. I supported him on the recognition of Vietnam, on most favored nation status for China, on the Mexican peso bailout, on NATO expansion, on NAFTA and GATT and fast track, all to the discomfort of some of my constituents. I did so because I thought the President was right. And I went into that briefing very much capable of being convinced.

But during the briefing, as I became more and more uneasy about what I was hearing, when it came my turn to speak, I said to Secretary Albright: Let me give you a little bit of history.

I did that because she had quoted history to us, talking about the Balkans being the beginning of World War I and the battleground of World War II.

And she said: If we don't act quickly enough, this will be the spark that sets off World War III.

I did not choose to argue with her history. World War I did not begin because of a fight over the Balkans. While there were battles in World War II which occurred there, to be sure, the pivotal points in World War II were in places like North Africa, Stalingrad, Normandy, and Bastogne, not to mention, of course, Guadalcanal, Iwo Jima, and Leyte Gulf.

No. I said to her: Madam Secretary, let me give you a little piece of history. This comes out of the Eisenhower administration, presided over by a military general who had achieved international fame for his strategic vision. This is when he was President.

I said, ''A group of his advisers came to him to describe an international situation and to recommend a military solution. They laid out all of the military actions they wanted to take and then said, Mr. President, it will achieve these results.''

President Eisenhower listened very carefully and then asked: ''Are you willing to take the next step?'' They replied, ''What do you mean, Mr. President?''

He said, ''If this doesn't work, this first step that you have outlined, are you willing to take the next step?''

''Oh, Mr. President,'' they said, ''the next step won't be necessary. There won't need to be any next steps. This first step will work.''

President Eisenhower asked again, ''You have not answered my question. Are you willing to take the next step?''

''Well, let us explain to you, Mr. President, why the next——

He said, ''I accept your analysis that this will probably work. I accept your analysis that people will probably react in the way you are suggesting they will react. But I am asking you this question: 'Are you willing to take the next step if the first one does not work?' And if the answer is 'No', then don't take the first step.'' I asked, ''Madam Secretary, my question to you is, 'Are you willing to take the next step?' If this doesn't work, what do we do?''

I got conversation, but I did not get an answer to my question. I came out of that briefing saying, unless I can get an answer to that question, I will vote against the bombing. I was not satisfied and I did vote against the bombing.

I did not prevail in this Chamber. A majority of the Members voted in favor of the bombing, and so we have now had 8 weeks of it.

That date has an interesting meaning for me, because in this conversation, in the briefing, they were asked, ''How long will it take for us to find out if this is going to work?'' We were told repeatedly, ''We can't tell you that. We don't know.''

Finally, in some frustration, I spoke out of turn and said to the briefer, ''How long would you be surprised if it were more than?''

I got kind of a dirty look and then grumpily the fellow said: ''8 weeks.''

Well, it has now been 8 weeks, and it hasn't worked, which is why I am here saying let's suspend the bombing while we talk about something that might. Let us stop destroying the economy of Yugoslavia while we talk about what might work in Kosovo, because our destruction of water works and television stations and power-generating plants in Belgrade has had no effect on the

killing in Kosovo. Can't we stop killing civilians who are not involved in this while we talk about what our options might be?

I think one of the most trenchant and insightful analyses of what happened to this country in Vietnam was written by Barbara Tuchman in a book called ''The March of Folly.'' In that book she described how people persist in going after solutions that do not work, because they do not want to admit that it won't work, and they are sure that if we just keep bombing a little bit longer, somehow something will work out.

Shortly after I had my exchange with Secretary Albright, the President, President Clinton, was asked, ''What will you do if the bombing does not work?'' He was asked by the Prime Minister of Italy. According to the Washington Post, he looked startled at the question, then turned to National Security Advisor Sandy Berger for an answer. Mr. Berger gave him the answer, ''We will continue bombing.''

To me, that is folly. To me, that is not Churchillian. To me, that is not looking around to see what else might be there. I suggest, again, I call for a suspension of the bombing while we review our options, admit that the bombing hasn't worked and try to devise a new strategy that will. Perhaps there is none. After all of this analysis we may come to the conclusion there is nothing we can do now that the brutalities have taken place and the Kosovars have been driven from their homes. There may be nothing we can do effectively to restore them. For those who say how humiliating it would be for the United States to admit that, I ask this question, ''How humiliating will it be if we go forward and fail to achieve our goals? Wouldn't we have been better off in Vietnam if we had admitted that we were not getting it done long before the time came when that humiliating scene we all saw on our television screens of the helicopters above the Embassy in Saigon was broadcast throughout all the world?''

I voted for the supplemental bill that provided the military funds with respect to the operation in Kosovo. I did so because I lost the first debate. The bombing went on. The funds were spent. The President has exhausted all of the funds of the Department of Defense through the balance of this year, and it would be irresponsible, in my view, not to replenish those funds so the Defense Department can function now. I voted to replenish the funds that have already been spent. But I call on us to stop spending those funds now, while we undertake a comprehensive review of our strategy and address, once again, the fundamental question that was not answered in the beginning, and has not been answered so far, which is still, ''Will it work?''

I conclude by saying that the historic figure upon whom I called for the rationality of answering that question is Winston Churchill, the man who went to the front lines and saw that trench warfare was insanity and came back to become the father of the tank, who looked for another alternative. There must be something better than what is happening in Kosovo right now. Let us suspend the bombing and search for it.

I yield the floor.

Mr. President, I have an additional 5 minutes under my control, which I yield to the Senator from Nebraska, Mr. HAGEL.

Mr. DORGAN. Mr. President, if the Senator from Nebraska will yield.

The PRESIDING OFFICER. The Senator is recognized.

Mr. HAGEL. I am happy to yield to my colleague from North Dakota.

EXTENSION OF MORNING BUSINESS

Mr. DORGAN. Mr. President, I have cleared this request. I ask unanimous consent that morning business be extended until the hour of 1:30, and that at 1 I be recognized for 20 minutes in morning business.

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

The distinguished Senator from Nebraska is recognized.

75TH ANNIVERSARY OF AMERICAN FOREIGN SERVICE

Mr. HAGEL. I thank the Chair, and I thank my friend and colleague from Utah for some additional time.

I rise today to commemorate the 75th anniversary of the creation of the modern American Foreign Service.

We have all traveled abroad. I have visited over 60 countries over the years. As many Americans, I have seen firsthand the dedication of professional Foreign Service officers in some of the most difficult and dangerous working environments in the world.

There is no longer any clear division between domestic and international issues. Transportation, trade, telecommunications, technology, and the Internet have changed all that.

As our Nation grew, it became more globally engaged. Over the last 200 years, year after year, America has become an international community. In 1860, we had only 33 diplomatic missions around the world. But we had 253 consular posts abroad, primarily involved in supporting our Nation's dramatic economic growth and trade expansion. As America's role in the world grew, we took on more responsibility. America's diplomacy needed to draw from the broad strength of our democratic society. And that, too, grew.

The solution was the Rogers Act of 1924. This act created America's first professional competitive Foreign Service. It merged the small, elite diplomatic corps with the more broadly based consular services. The Rogers Act established a merit-based exam system to recruit the best our growing Nation had to offer without regard to family ties or political favors.

America's diplomats are unsung heroes. Americans understand and appreciate the sacrifices of duty, honor, and country we ask every day from our military around the world. However, not enough Americans know about the sacrifices we also ask every day from our American Foreign Service officers around the world. Just like our military, they serve our national interests abroad in an increasingly uncertain and dangerous world.

Our military's purpose is to fight and win wars. The purpose of our diplomats is to prevent wars. This makes recognition for their work more difficult. This is a little like listening for the dog that doesn't bark. But our Foreign Service officers do much more than prevent wars and resolve crises. They negotiate agreements to expand trade and open up foreign markets. They protect Americans abroad who find themselves in trouble and many more important responsibilities. They explain American policies to often hostile nations. They help negotiate arms control agreements to stem the dangerous proliferation of weapons of mass destruction.

The work of the Foreign Service is relevant. It is very relevant to the daily lives of every American. Their many successes are often unheralded. We take them for granted. The Foreign Service has endured the same underfunding and poor working conditions as has our military services. In the last decade, the Foreign Service has experienced similar recruitment and retention problems, as has the military.

Since 1992, the Foreign Service has declined 11 percent, even while we have asked the Foreign Service to open up new missions in Central Asia and Eastern Europe and increase staffing in China. This has led to sharp staff reductions elsewhere in the world.

In my travels, as I am sure in your travels, Mr. President, and all of our colleagues' travels, we have also seen how run down and dangerous many of our embassies around the world have become. This has a real impact on our national interest. This is as dangerous as what we have been doing to our military. It is like asking the Air Force to permanently maintain an increased flight tempo with aging aircraft and a severe shortage of pilots. This all has serious consequences to our country. Few appreciate how dangerous it has become for our diplomats who defend America's interests the world.

Since World War II, more ambassadors have been killed in the line of duty than generals and admirals. The Secretary of State has commemorated 186 American diplomats who have died under ''heroic or inspirational circumstances.''

Finally, in today's global community, we have a greater need for an active, energetic, and visionary foreign policy and those who carry out that foreign policy than ever before.

Today, we all commemorate the 75th anniversary of the creation of the modern American Foreign Service, and we are stronger and better for it.

The PRESIDING OFFICER. The time between 12:30 and 1 p.m. shall be controlled by the Senator from New Hampshire.

The distinguished Senator from New Hampshire is recognized.

(The remarks of Mr. SMITH of New Hampshire pertaining to the submission of S. Res. 107 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER (Mr. KYL). The time of the Senator has expired. The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, I ask unanimous consent that Senator JOHNSON be added as a cosponsor to S. 1022, the Veterans Emergency Health Care Act of 1999.

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

PRIVILEGE OF THE FLOOR

Mr. DORGAN. Mr. President, I ask unanimous consent that Josh Alkin, a member of my staff, be given the privilege of the floor.

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

FEDERAL SON OF SAM LEGISLATION

Mr. DORGAN. Mr. President, last week we debated the Juvenile Justice Act. We had a good number of provisions, especially dealing with guns, gun shows, and gun sales that were very controversial. I did not speak last week on an amendment I offered to the juvenile justice bill that became a part of that and is now a provision that has been passed by the Senate. I want to take a few minutes today to describe the amendment I offered and its importance.

Some while ago, I was watching a television program. It was about a serial killer, a man who killed four women and one man in Gainsville, FL. The program described the book this serial killer has written: ''The Making of a Serial Killer: The Real Story of the Gainsville Murders in the Killer's Own Words.''

I thought: That cannot be the case. If you murder four or five people and are sent to prison, you lose your right to vote and you lose certain rights. Do you have a right to write a book and profit from it? This television program described the dilemma.

There was a murderer in New York who was described as the ''Son of Sam'' murderer many years ago. He was sent to prison and wrote a book in order to profit from his murder. In other words, a violent murderer goes to prison and spends his time writing a book to sell to the public to make money. Is that a right prisoners have in this country after committing a violent crime? Is there a constitutional right to profit from a violent crime in America? I do not think so.

The State of New York passed a statute, the ''Son of Sam'' statute, and the Federal Government passed a statute saying that the proceeds from a book written by a violent offender who is sent to prison cannot be retained by the violent criminal.

That was appealed and went to the U.S. Supreme Court. Guess what. The U.S. Supreme Court said: No, you may not prohibit the expressive writings of a violent criminal, because that is a violation of the first amendment. I am truncating the Supreme Court decision, but essentially the Supreme Court invalidated the ''Son of Sam'' laws. The Federal law has never been enforced, to my knowledge, and the State laws have been invalidated.

So we had a circumstance where, on the program I watched, this serial killer was interviewed. The woman with whom he apparently is romantically involved, who is one of the sponsors of this book, was interviewed. It raised the question in my mind: Shouldn't we correct this issue and these statutes so the next time this goes to the Supreme Court, the Supreme Court will not overturn the law?

I wrote a piece of legislation, after consultation with some constitutional lawyers, that I think does solve this issue and will say to any prospective author, some disgusting human being who murders four young girls and a man in Gainsville, FL, who now says, I want to write a book to describe the detail, the horrible detail of these murders: You can write until you are dead, but you will never ever profit, you will never profit by writing the accounts of your murders and then sell a book and keep the money. Not just you, but your agent, those to whom you assign the profits—you will not be able to reap the rewards of telling the gruesome, dirty tales of your sordid criminal lives.

The juvenile justice bill which passed last Thursday has an amendment in it that closes the loophole and rewrites the Federal law. It says that any individual convicted of any Federal or State felony or violent misdemeanor, if that convicted defendant tries to sell his book, movie rights, or other expressive work or any property associated with the crime—a bloody glove, murder weapon, photos and so on—whose value has been enhanced by that crime, then the U.S. attorney will make a motion to forfeit all proceeds that would have been received by the defendant or the defendant's transferee—spouse, partner, friends, and so on.

Is this important? I think it is. I think we ought to have a Federal statute, and if the Supreme Court said the ''Son of Sam'' statute is not valid, we ought to have a Federal statute that says to anybody in this country: If you commit a violent crime and you go to prison, do not expect to sit in prison and write and profit by publishing a book about your crime.

I offered that in the Senate last Thursday, and I was joined by my colleague, Senator EVAN BAYH. It has now passed the Senate, and my hope is my colleagues in the House will see fit to keep this in the Juvenile Justice Act, and it will go to the President and be signed into law.

(The remarks of Mr. DORGAN pertaining to the submission of S. Res. 105 are located in today's RECORD under ''Submissions of Concurrent and Senate Resolutions.'')

COMPREHENSIVE NUCLEAR TEST BAN TREATY

Mr. DORGAN. Mr. President, I want to make a point about something which I think is critically important to the Senate and to this country and its future. It is something we are spending no time on and pay no attention to. It is the issue of the Comprehensive Nuclear Test Ban Treaty.

In the past two State of the Union Addresses, the President has asked Congress to report out and approve the nuclear test ban treaty.

Going back to a time when President Eisenhower talked about this issue, I think most Americans understand the value of and the interest in a test ban treaty.

Since 1945, six nations have conducted 2,046 nuclear test explosions. That is an average of one test every 9 days. There are a few countries that have the capability of producing a nuclear weapon and testing a nuclear weapon. There are many countries that want that capability. Stopping the spread of nuclear weapons, stopping the spread of missile technology, the means by which nuclear warheads can be delivered, is critically important.

It seems to me one of the underpinnings of those efforts must be the passage of the Comprehensive Nuclear Test Ban Treaty. The United States has been under a moratorium of nuclear tests. We have not been testing since that moratorium began in 1992. We do not test nuclear weapons. We have been a leader. In this area, ratifying the Comprehensive Test Ban Treaty is not only important public policy for our country and the world, it is important in the context of our leadership in these areas.

The difficulties we now have in the Balkans and the ruptures that have occurred with our relationship with the Russians, it seems to me, ought to emphasize to us how important it is to turn back to these issues of arms control.

We know that the Iranians are testing medium-range missiles. We know that the North Koreans are testing medium-range missiles. We know that India and Pakistan exploded nuclear weapons under each other's nose, and they do not like each other.

Ought that be of some concern to us? Of course it should. Yet, the Nuclear Test Ban Treaty—the CTBT it is called—the Comprehensive Nuclear

Test Ban Treaty is here in a committee without movement. There were no hearings on the treaty in the last session of the 105th Congress. We are now 5 months into the 106th Congress. I very much want our country to do the right thing: Ratify that treaty before September of 1999, when the committee will be formed of the countries that are signatories to that treaty and who have ratified that treaty, about how it will be brought into force and how it will be verified.

I know some say: Well, if you have a treaty on banning nuclear weapons tests, only those who are willing to ban them will ban them, and you can't deal with the rogues or the outlaws.

Look, if that is the attitude, no arms control of any type is worth pursuing. But, of course, that is absurd. Arms control has brought real rewards and real reductions in nuclear weapons.

I have in my desk here in the Senate a piece of a backfire bomber. I am not at my desk to get it, but it is a piece of a wing of a backfire bomber. Normally you would get a piece of a potential adversary's bomber wing by shooting down a bomber. We did not do that. We cut the wing off the bomber as part of an arms control agreement in which they reduced the number of bombers, they reduced the number of missiles, and they reduced the number of warheads.

Arms control reductions have worked. So too will the Comprehensive Nuclear Test Ban Treaty. I intend to work with a number of my colleagues to see if we are able, in the coming weeks, to speak with some aggressiveness on this issue here on the floor of the Senate and, on behalf of the American people, to make the case that we ought to have the opportunity to vote on the ratification of the Comprehensive Nuclear Test Ban Treaty. We ought to do it soon.

I have seen the agenda that has been offered by the Majority Leader as to what he hopes to bring to the floor to the Senate before Memorial Day, before the Fourth of July. This is not on it. It must be. It should be. I hope it will be, because this is a critically important issue to our country and to the world.

Efforts to stop the proliferation of nuclear weapons are critical to our future.

Many countries want them. Only a few countries have access to them. We must, at every step of the way, try to forge arms control agreements that work. The Comprehensive Nuclear Test Ban Treaty is one step in that direction.

Other steps include forging additional alliances with Russia who, as all of us know, is in some significant economic difficulty. We worry a lot about a range of issues with respect to their command and control of nuclear weapons.

But the first step, I think, is for the Senate to be given the opportunity to vote on and ratify the Comprehensive Nuclear Test Ban Treaty. I hope that is sooner rather than later.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

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

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

(The remarks of Ms. LANDRIEU pertaining to the submission of S. Con. Res. 33 are printed in today's RECORD under ''Submission of Concurrent and Senate Resolutions.'')

Ms. LANDRIEU. I thank the Chair.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

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

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

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2000

The PRESIDING OFFICER. The clerk will report the bill.

The legislative assistant read as follows:

A bill (S. 1059) to authorize appropriations for fiscal year 2000 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The Senate proceeded to consider the bill.

PRIVILEGE OF THE FLOOR

Mr. WARNER. Mr. President, I ask unanimous consent that the staff members of the Committee on Armed Services appearing on the list appendant hereto be extended the privilege of the floor during consideration of S. 1059.

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

The list is as follows:

ARMED SERVICES COMMITTEE STAFF

Romie L. Brownlee, Staff Director.
David S. Lyles, Staff Director for the Minority.
Charles S. Abell, Professional Staff Member.
Judith A. Ansley, Deputy Staff Director.
John R. Barnes, Professional Staff Member.
Stuart H. Cain, Staff Assistant.
Christine E. Cowart, Special Assistant.
Daniel J. Cox, Jr., Professional Staff Member.
Madelyn R. Creedon, Minority Counsel.
Richard D. DeBobes, Minority Counsel.
Marie Fabrizio Dickinson, Chief Clerk.
Keaveny A. Donovan, Staff Assistant.
Edward H. Edens IV, Professional Staff Member.
Shawn H. Edwards, Staff Assistant.
Pamela L. Farrell, Professional Staff Member.
Richard W. Fieldhouse, Professional Staff Member.
Maria A. Finley, Staff Assistant.
Mickie Jan Gordon, Staff Assistant.
Creighton Greene, Professional Staff Member.
William C. Greenwalt, Professional Staff Member.
Joan V. Grimson, Counsel.
Gary M. Hall, Professional Staff Member.
Larry J. Hoag, Printing and Documents Clerk.
Andrew W. Johnson, Professional Staff Member.
Lawrence J. Lanzillotta, Professional Staff Member.
George W. Lauffer, Professional Staff Member.
Gerald J. Leeling, Minority Counsel.
Peter K. Levine, Minority Counsel.
Paul M. Longsworth, Professional Staff Member.
Thomas L. MacKenzie, Professional Staff Member.
Michael J. McCord, Professional Staff Member.
Ann M. Mittermeyer, Assistant Counsel.
Todd L. Payne, Special Assistant.
Cindy Pearson, Security Manager.
Sharen E. Reaves, Staff Assistant.
Anita H. Rouse, Deputy Chief Clerk.
Joseph T. Sixeas, Professional Staff Member.
Cord A. Sterling, Professional Staff Member.
Scott W. Stucky, General Counsel.
Eric H. Thoemmes, Professional Staff Member.
Michele A. Traficante, Staff Assistant.
Roslyne D. Turner, Systems Manager.
D. Banks Willis, Staff Assistant.

PRIVILEGE OF THE FLOOR

Mr. WARNER. Mr. President, I ask unanimous consent that Lawrence Slade, a fellow on the staff of Senator MCCAIN, be granted privileges of the floor during the discussion of S. 1059, the national defense authorization bill.

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

Mr. WARNER. Mr. President, today the Senate begins consideration of S. 1059, the National Defense Authorization Act for Fiscal Year 2000.

It is my distinct privilege as chairman to make the initial statement regarding this bill. I acknowledge the presence on the floor of my senior and most respected member, Mr. THURMOND, the former chairman of the Armed Services Committee. He will be speaking to the Senate just after the statements by the chairman and the ranking member. I thank Senator LEVIN, the ranking member. We came to the Senate together. I think this is our 21st year. We have collaborated on many, many special assignments given to us by previous chairmen and/or ranking members through the years. I value our professional relationship and, indeed, our friendship.

I also wish to pay special acknowledgment to the subcommittee chairmen of the Armed Services Committee. Prior to this year, for some 20 years, I was a subcommittee chairman. I understand the role of a subcommittee chairman on our committee. But I must say, with great humility, I think each of the subcommittee chairmen this year exceeded beyond any current precedent their leadership, their hard work, together with their ranking member, in

preparing the respective parts of this bill over which their subcommittees have jurisdiction.

We have on our committee today marvelous participation by all members of the committee, on both sides of the aisle. I think our committee has historically operated and tried in every way to be nonpartisan on matters of defense, and we have succeeded.

We are supported by just an extraordinary professional staff, and indeed other Members have their various personal staff members who work with the professional staff, and it is all a team together working to produce not only the bill but throughout the year to be responsive to each and every Member of the Senate with regard to their requests, or whatever the case may be, as they relate to the jurisdiction of our committee. So I thank them all at this time, as we begin this very important presentation to the Senate for the year 2000.

I am extremely pleased to observe that this is the first time in nearly 15 years—15 consecutive years—that the defense budget before the Senate represents an increase in real terms, real dollars in our defense spending. This is a much-needed change, one that recognizes the problems brought on by 14 years of decline in defense spending. This overlaps, as the Chair will quickly recognize, both Republican and Democrat administrations. So this is not a political statement, although I do believe that the cuts under President Clinton have been too long and too deep. It was this year that the President, largely at the urging of a very courageous and fine Secretary of Defense, our former colleague, Secretary Cohen, and, indeed, members of the Joint Chiefs, gave his support to raising defense spending levels.

Today, particularly under President Clinton, who has sent forward our troops into harm's way more times on more different specific missions than any other President in the history of this country, we are asking every day, every month, every year, more and more of the men and women of the armed services at a time when we have this very, very low level of manning of all branches of our services.

At the same period, this world remains a place of ever increasing violence and uncertainty. As U.S. national interests are challenged throughout the globe, it is incumbent upon our military to be prepared to act when necessary, and act they have, with extraordinary commitment and professionalism.

Our military forces are currently strained by ongoing day-to-day operations. The contingency operations in Bosnia, Iraq, and throughout the Balkan regions are putting a very severe strain on our overall manning and commitments, and the families —may I underline ''the families''—of these service members. In order for the military to respond effectively, it must receive the resources necessary to equip, train, and operate.

Unfortunately, after years of declining budgets and continually increasing deployments overseas, the military services are showing the beginning signs of this overburdening. Recruiting and retention problems are leading to shortfalls in key skills. Insufficient procurement budgets have left our forces with equipment that is somewhat unreliable because of age and, indeed, more costly every day to maintain. Inadequate infrastructure funding has resulted in the degradation of the facilities in which our military personnel work and live.

We must provide additional resources if we are to preserve this Nation's security and the readiness of its Armed Forces. That is why this bill before the Senate authorizes $288.8 billion in budget authority for fiscal year 2000—$8.3 billion above the President's request.

I commend the majority leader of the Senate, Senator LOTT, for his support and his leadership. It doesn't just go back a few weeks; it goes back well into last year. When consulting with him and, indeed, our distinguished chairman at that time, Senator THURMOND, the three of us recognized, together with other leaders in the Senate, such as Senator STEVENS and Senator DOMENICI, that we have to bring about a reversal in this decline of defense spending. Those are the origins of the change of this curve.

I want to note the extraordinary relationship that exists today between our committee and the Defense Appropriations Subcommittee. I particularly thank Senator STEVENS and his staff director, Steve Cortese, for their cooperation and support throughout the process of putting this bill together. Hopefully, Senator STEVENS will follow soon behind with his bill so that the Senate can have both to consider.

At this point I wish to take a moment to give credit to the Joint Chiefs of Staff for helping to secure the additional funding for defense. I think this is the first year in my 21 years that they have stepped forward with such absolute determination, vigor, and professional honesty and integrity and told the Senate—in effect, told the American people—of the concerns they have not only for their personnel but for the lack of funding needed to train the personnel, the research and development needed for the future, and the procurement decline we have experienced through these years. They came before the Senate committee last September and again in January, and they were very forthright. I don't doubt for a minute that their determination was the primary reason the President and the Secretary of Defense stepped up and began to support additional funding.

The Secretary of Defense, of course, all along had been counseling the President, but I want to pay special respect to the Joint Chiefs.

It is by necessity that I address this question of the shortfall in defense spending and lay it out historically over these 15 years.

But let no one, let no nation, let no leader, let no rogue or terrorist think for a moment that the men and women of the Armed Forces of the United States, together with their equipment and their readiness and training, aren't prepared to turn back any threat posed against this Nation, or this Nation together with its allies.

In numerous committee hearings this year, the frightening magnitude of some of these problems was revealed. General Shelton, Chairman of the Joint Chiefs of Staff stated, ''Anecdotal and now measurable evidence indicates that our current readiness is fraying and that the long-term health of the Total Force is in jeopardy.'' General Shelton further informed the committee that our ability to execute our national military strategy has declined so severely that it would ''* * * take us more time, and that time to victory would mean that we would lose terrain that we subsequently would have to regain. It means that the casualties to the U.S. would be higher.'' Furthermore, according to the latest Quarterly Readiness Report: ''* * * there are currently 118 CINC-identified readiness related deficiencies, of which 32 are designated category 1 deficiencies—ones which entail significant war fighting risk to execution of the National Military Strategy and are key risk drivers for the MTW, Major Theater War, scenarios.''

During the committee's hearings on September 29, 1998 and January 5, 1999, the Service Chiefs outlined the essential funding requirements necessary to maintain the readiness of the armed forces. General Shelton and the Chiefs identified a series of readiness and modernization problems that, without additional funding of approximately $17.5 billion per year—I repeat, Mr. President—$17.5 billion per year—would continue to degrade our military capability.

This figure does not include the additional funding necessary for contingency operations such as those we are facing in Kosovo today and in Bosnia and Iraq. It does not include additional funding for these contingency operations and increased pay and retirement benefits necessary to address the serious problems in recruiting and retention. This would cause additional requirements to exceed $20 billion per year.

While the committee acknowledges that the administration's budget request contained additional money for defense—primarily because of the Joint Chiefs and Secretary Cohen's direct pleas to the President, the proposed budget request for fiscal year 2000 still falls short of meeting the Service Chief's minimum requirements.

One of the noteworthy shortfalls within the budget request is the Administration's request to incrementally fund military construction. Such incremental funding would actually result in increased costs and delays in

the construction of critical facilities. In addition, although the administration's fiscal year 2000 request represents an increase of approximately $500.0 million over the fiscal year 1999 budget request, it does not adequately fund the quality of life needs of the military departments. Therefore, the bill before the Senate allocates an additional $3.3 billion to MILCON to fully fund the fiscal year 2000 military construction and family housing programs requested by the Administration, and to fund additional quality of life programs—those determined by the members of our committee to have that high priority.

A focus of the committee's action this year has been to address the serious problems we are having with recruiting and retaining a quality force. In January, the committee moved quickly to report out—and the Senate subsequently passed—S. 4, The Soldiers', Sailors', Airmen's and Marines' Bill of Rights Act of 1999. The act authorized a 4.8-percent pay raise, reformed the military pay tables, and improved the military retirement system.

The National Defense Authorization Act for 2000—this bill—includes pay and compensation elements of S. 4, as well as other innovative proposals to offer incentives to potential recruits and active-duty personnel.

We believe the policies recommended in this bill will enable the military services to recruit and retain the number of quality personnel required to meet our national military strategy.

That is the heart and soul of this bill.

Again, I wish to commend Senator LOTT and others who let this committee move out and have this as the first bill in the Senate to send the strongest message to the men and women in the Armed Forces all across the world that the Congress of the United States—certainly the Senate—stands beside them to see they are properly compensated and that their families receive a fair return for their services and the risks they take.

There it is. It is in here. I hope it receives the strongest support of the Senate.

The funding level of $288.8 billion for defense contained in the bill before the Senate represents a real increase of 2.2 percent over the fiscal year 1999 level. With the additional $8.3 billion over the budget request, the committee has done the following:

Added more than $1.2 billion to primary readiness accounts, including ammunition, training funds, base operations, and real property maintenance.

Two, authorized net increases of $509.3 million for ballistic missile defense programs; $218 million for military space programs and technologies; $111.6 million for strategic nuclear delivery vehicle modernization; and $55 million and a fraction for military intelligence programs; authorized $12.2 billion for atomic energy defense activities under the Department of Energy, an $187 million increase over the 1999 funding levels. That is an area in which the Presiding Officer has taken a great deal of interest through the years.

Recommended a comprehensive set of provisions to enhance safeguards, security and counterintelligence at DOE facilities in response to recent and very, very grave and serious allegations regarding lack of security at DOE laboratories.

We are learning every day about this breakdown in our counterintelligence. Members are participating in this analyzation. It is very serious and requires the closest attention by every single Member of the Senate.

The committee has spent a good deal of time examining the allegations of Chinese espionage at the DOE facilities. The initiatives contained in this bill, I believe, will go a long way toward fixing the problems that Congress continues to discover. I say ''continues,'' because more and more comes out every day.

In addition to the other items contained in this package, we have put into statute many of the items contained in the Presidential Decision Directive 61. The Secretary of Energy has indicated his support for our legislation. That is in this bill. We passed these provisions with strong bipartisan support in the committee.

We also authorized a $855 million increase to the procurement budget request and a $213 million increase to research, development, test, and evaluation for the Navy, Marine Corps, and Air Force seapower and strategic lift programs. In addition, the committee authorized the budget requests for construction of six new ships and robust research and development in the future ships DD–21, CVN(X), the *Virginia* class submarines, and CVN–77.

We added nearly $1.9 billion to procure a range of critical, unfunded requirements, and over $280 million of vital research and development activities for both air and land forces.

We establish 17 new National Guard Rapid Assessment and Initial Detection Teams for domestic response to terrorist attacks involving weapons of mass destruction.

This is a problem that this Senator considers the most serious facing the United States of America. That is, terrorism, which no longer is beyond our shores but which could be brought to our shores by any of the people crossing through the ports and the airports of this great nation of ours. Regrettably, even someone of deranged mind here at home could bring about the use of weapons of mass destruction.

Therefore, this Senator, and indeed this committee, is giving its strongest support to prepare ourselves, hopefully, to deter any such attacks. If they occur, then the resources of the Department of Defense stand well trained to assist other departments and agencies of this Government in bringing about what solutions we would be faced with in such a horrible situation.

I established a new subcommittee this year called Merging Threats under the very capable leadership of the Senator from Kansas, Senator ROBERTS. He will have more to say today about the very valuable work of this subcommittee and its ranking member and other Members toward what I have described in meeting this particular threat here at home.

These particular teams, each comprised of 22 full-time National Guard personnel specifically trained and equipped to deploy and assess suspected nuclear, biological, chemical, and radiological events in support of local first responders—that is, the local police, the local rescue, hospitals, volunteers all across our country; that is a local responding—would provide greater team coverage nationwide and greatly increase our ability to respond quickly to terrorist attack in the United States of America.

Now, I note that the National Guard is involved. Throughout this bill, throughout current military history, there is an ever and ever increasing role for the Guard and Reserve forces. They comprise the total force, when you calculate the military capabilities of this country, and as each year goes by, more and more responsibility must be shared by the Active Forces with the Guard and the Reserve. They have performed brilliantly.

Further, we establish a Department of Defense central transfer account for all funds to combat terrorism both at home and abroad, establish an information assurance initiative to strengthen DOD's information assurance program, and add an additional $120 million to the administration's request for information assurance programs, projects, and activities.

The committee also considered additional base closings. This is a very serious subject, and my colleague, Mr. LEVIN, will have more to say about this, as will Senator MCCAIN. During markup, the committee addressed two amendments submitted by these Senators. Both were not voted favorably by the committee.

Speaking for myself, I have historically supported BRAC as a means of reducing excess military infrastructure. As Secretary of the Navy, I remember vividly having closed the Boston Naval Shipyard, one of the most significant base closings since World War II. I know how difficult it is on the local community and the State to see one of these facilities close. It is not just a matter of economics, although that is very serious; it is a matter of pride; it is a matter of patriotism; it is a matter of generations of association of the men and women of the military forces who were trained at and operated these bases. It goes back into the sinews of our history.

Today, it is quite clear that the infrastructure and our inventory exceeds that which is needed by the current levels of the Armed Forces. Much of our war-fighting capability has

changed dramatically. I remember the first BRAC. I was coauthor of that legislation. We closed a number of the old cavalry outposts that were built for the sole reason of protecting the territories when Americans were settling the West.

By the time we got around, I think, 10, 12 or 15 years ago, to closing these bases, they had long since outlasted their military contribution to the overall security of our Nation. Historically, the country has always been behind.

Again, I was the coauthor of the last BRAC bill. However, this time I declined and voted against the BRAC legislation for reasons that I will state more succinctly and fully at the time the amendment is brought to the floor today.

I believe the bill before the Senate is a vital first step in enhancing military readiness, modernizing our forces, and improving the quality of life of our service members and their families.

I urge my colleagues to send a strong signal of support, a strong signal of support to the men and women of the Armed Forces bravely performing their responsibilities as their forefathers have done throughout the history of this great Nation, formed 209-plus years ago. I anticipate with this bill and the bills that will follow we will always keep America strong, a beacon of hope and freedom and security to the whole world.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I am pleased to join the chairman of the Armed Services Committee in bringing S. 1059 to the floor. This is our fiscal year 2000 defense authorization bill. It is the product of many months of hard work by the committee under the leadership of our new chairman, Senator WARNER, who has taken the baton from Senator THURMOND, who had done an extraordinary job. Senator THURMOND, who is on the floor, was chairman of our committee for many years. This year he turned that responsibility over to Senator WARNER, and Senator WARNER has carried on with great strength and great commitment that is in keeping with the leadership Senator THURMOND showed when he was chairman of this committee. I commend Senator WARNER for carrying on that tradition of Senator THURMOND and, indeed, those before Senator THURMOND.

As Senator WARNER has pointed out, our staffs have been instrumental in helping us bring this bill to the floor. We had a unanimous vote for this bill in committee. I think that is a real testament to the chairman's leadership. I commend him for it.

Mr. WARNER. Mr. President, if the Senator will yield, it was a partnership between the Senator from Michigan and myself together with all members of our committee.

I think in the context of talking about Senator THURMOND, in the 21 years we have been here, he served with the chairmen before Senator THURMOND—Senator Nunn, Senator Tower, Senator Goldwater, Senator Stennis. Indeed, both you and I were well trained by these very, very strong and able leaders in the defense of our Nation.

Mr. LEVIN. Mr. President, that is a view I fully share.

The bill we bring to the floor is a sound bill that goes a long way to meet the priorities which have been established by Secretary Cohen and the Joint Chiefs of Staff. It is brought to the floor based on a very sound foundation because General Shelton, the Chairman of the Joint Chiefs, has assured us, assured the committee, assured the Congress, and assured the Nation our Armed Forces are fundamentally sound and fundamentally capable of fulfilling their role in our national military strategy. So we start with that sound foundation. Obviously, there are some places where we have to put some additional resources. But the foundation is a sound one and the Chairman of our Joint Chiefs has assured us of that.

So, what we seek to do in this bill is build on that sound foundation. I believe we have done so. In accordance with the fiscal year 2000 budget resolution, the bill includes an $8 billion increase in budget authority above the level provided in the President's budget.

Unlike some of the budget increases in the past years, the added money in this bill will be spent in a much more responsible way than we have sometimes done in the past, because the money we have added this year is entirely spent for programs for which the Department of Defense has indicated a real need. The bottom line is, this bill will improve the quality of life for our men and women in uniform. It will improve the readiness of our military. It will continue the process of modernizing our Armed Forces to meet the threats of the future.

Virtually all the items for which the committee added funding were taken from either the Services' unfunded priority list for fiscal year 2000 or from the outyears of the future years' defense program, the so-called FYDP, which we deal with in the Armed Services Committee. These add-ons include substantial increases for the highest priority readiness items identified by the Joint Chiefs of Staff, including an added $554 million for real property maintenance, $420 million for base operations, $120 million for ammunition, $73 million for spare parts, $60 million for reserve component training, $40 million for depot maintenance. This money will significantly enhance the ability of our Armed Forces to carry out their full range of missions.

These are areas where we sometimes fall short. These are not the most glamorous areas. They do not have a lot of people lobbying for them. But they are critically important areas—real property maintenance, base operation, spare parts, reserve component training, depot maintenance.

In addition, the bill includes the triad of pay and retirement initiatives sought by Secretary Cohen and by the Joint Chiefs—a 4.8-percent military pay raise for fiscal year 2000, reform of the military pay table to increase pay for midcareer NCOs and officers, and changes to the military retirement system. These changes will, hopefully, help address recruiting and retention problems we have in the services.

When S. 4 was considered on the Senate floor, we indicated then we wanted to do everything we could to ensure the men and women in uniform received fair compensation for the service they provide to our country. At that time, I expressed concern about proceeding with the pay bill outside the context of the defense authorization bill and before Congress had passed a budget resolution. We have now revisited this issue in the context of the budget resolution and the authorization bill. I am pleased to report the changes in military pay and benefits proposed in this bill are all paid for.

Unfortunately, the committee has not yet been able to find a way to fund one of the most important aspects of S. 4, and that aspect is Senator CLELAND's proposals to enhance the GI bill, which is so important in providing educational opportunities to the men and women in our Armed Forces. These provisions, Senator CLELAND's proposal, would provide substantial incentives to help address the current recruiting and retention problems which face the military services while offering our men and women in uniform an educational opportunity in the proudest tradition of our country. I expect Senator CLELAND will raise this issue again as we debate the bill on the floor.

I sincerely hope we will find a way to adopt these proposals. They are very important proposals. They are important to the retention we need to enhance. They would be important even if there were not a retention problem, in terms of opportunities we should offer to the men and women in our Armed Forces.

The bill reported by the committee also provides full funding for the Department of Defense Cooperative Threat Reduction Program with Russia and with other countries of the former Soviet Union. Unfortunately, two of the three companion programs at the Department of Energy received substantially less funding than requested by the administration. The bill also contains some unfortunate restrictions on the DOE Nuclear Cities Program, which I hope we will be able to address on the Senate floor.

The Cooperative Threat Reduction Program and the related Department of Energy programs are one positive cornerstone of our relationship with Russia. They play a vital role in our national security by reducing the threat of the proliferation of weapons of mass destruction from Russia and

from rogue nations with which Russia might be pressured to form closer ties in the absence of these programs.

One area where I am most disappointed with the outcome of the markup is base closures, and our chairman has made reference to this issue.

The case for additional rounds of base closures is overwhelming. The Secretary of Defense has told us that more base closures are critical to meeting our future national security needs. The Secretary's letter reads, in part, as follows:

[N]o other reform—

No other reform—

even comes close to offering the potential savings afforded by even a single round of BRAC.

Which is the base closing process.

There simply is no substitute for base closure and realignment.

He went on to say:

The two additional rounds under consideration by the Committee will ultimately save $20 billion and generate $3.6 billion annually. Both the Congressional Budget Office and the GAO affirm the reasonableness and credibility of our estimates for savings from BRAC. In exchange for property that we neither want nor need, we can direct $3.6 billion on an annual basis into weapons that give our troops a life-saving edge, into training that keeps our forces the finest in the world, and into the quality of life of military families.

The Secretary concluded:

The Department's ability to properly support America's men and women in uniform today and to sustain them into the future hinge in great measure on realizing the critical savings that only BRAC can provide. As such, the Chairman and Joint Chiefs are unanimous in their support of our legislative proposals, and I most strongly solicit your support and that of your colleagues.

The Chiefs themselves—all of them, the Chairman and the other Chiefs—wrote to us on May 10, a very strong letter, about the necessity of adopting an additional round of base closings. Here is what they wrote to our chairman:

Previous BRAC rounds are already producing savings—$3.9 billion net in 1999 and $25 billion through 2003. We believe that two additional rounds of BRAC will produce even more savings—an additional $3.6 billion each year after implementation. This translates directly into the programs, forces, and budgets that support our national military strategy. Without BRAC, we will not have the maximum possible resources to field and operate future forces while protecting quality of life for our military members. We will also be less able to provide future forces with the modern equipment that is central to the plans and vision we have for transforming the force.

These are our top military officials telling us about the importance of additional rounds of base closings, to remove the unneeded infrastructure that we are now supporting, which drains resources that are needed for modernization, for readiness, for morale, for training.

We cannot justify maintaining excess infrastructure that we do not need and, at the same time, say we have needs that must be addressed. We cannot have this both ways. We do have needs that must be addressed, and we have infrastructure we do not need which, if removed, will provide the resources to meet those needs.

Our top uniformed officers tell us the following:

BRAC is the single most effective tool available to the Services to realign their infrastructure to meet the needs of changing organizations and to respond to new ways of doing business. No other initiative can substitute for BRAC in terms of ability to reduce and reshape infrastructure. Simply stated, our military judgment is that further base closures are absolutely necessary.

Absolutely necessary is what the chairman and the members of the Joint Chiefs tell us.

These are not words of subtlety; these are very direct words which come from our uniformed leadership in this country, and we should heed them. I hope we will do that during consideration of this bill.

Mr. President, I ask unanimous consent that the two letters to which I have referred, in addition to a letter from the Service Secretaries dated May 11, be printed in the RECORD.

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

THE SECRETARY OF DEFENSE,
Washington, DC, May 11, 1999.

Hon. CARL LEVIN,
Ranking Member, Armed Services Committee, U.S. Senate, Washington, DC.

DEAR CARL: As I have on many occasions, I want to convey my strong support for approval of additional rounds of Base Realignment and Closure (BRAC) authority as part of the FY 2000 Department of Defense Authorization Bill, which the Senate Armed Services Committee is marking up this week.

As you are aware, the first three rounds of BRAC have already yielded some $3.9 billion net savings in FY 1999 and will generate more than $25 billion by the year 2003. These savings have proven absolutely critical to sustaining ongoing operations and current levels of military readiness, modernization and the quality of life of our men and women in uniform. Even still, the General Accounting Office (GAO) points out that the Department of Defense continues to retain excess infrastructure, which we estimate at roughly 23 percent beyond our needs.

As you know, we are aggressively reforming the Department's business operations and support infrastructure to realize savings wherever possible. Nevertheless, no other reform even comes close to offering the potential savings afforded by even a single round of BRAC. There simply is no substitute for base closure and realignment.

The two additional rounds under consideration by the Committee will ultimately save $20 billion and generate $3.6 billion dollars annually. Both the Congressional Budget Office and the GAO affirm the reasonableness andcredibility of our estimates for savings from BRAC. In exchange for property that we neither want nor need, we can direct $3.6 billion on an annual basis into weapons that give our troops a life-saving edge, into training that keeps our forces the finest in the world, and into the quality of life of military families.

I well appreciate both the difficult decision you and your colleagues now face, as well as the legitimate concerns of bases and communities potentially affected by additional rounds of BRAC. At the same time, many success stories across the nation prove that base closure and realignment can actually lead to increased economic growth. In fact, the GAO recently noted that in most post-BRAC communities incomes are actually rising faster and unemployment rates are lower than the national average. Moreover, the Department continues to streamline the process, making it even easier for communities to dispose of base property and to create new jobs in the future.

The Department's ability to properly support America's men and women in uniform today and to sustain them into the future hinge in great measure on realizing the critical savings that only BRAC can provide. As such, the Chairman and Joint Chiefs are unanimous in their support of our legislative proposals, and I most strongly solicit your support and that of your colleagues.

BILL COHEN.

CHAIRMAN OF THE
JOINT CHIEFS OF STAFF,
Washington, DC, May 10, 1999.

Hon. JOHN WARNER,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: We are writing to you to express our strong and unified support for authorization for additional rounds of base closures when the Senate Armed Services Committee marks up the FY 2000 Department of Defense Authorization Bill next week.

Previous BRAC rounds are already producing savings—$3.9 billion net in 1999 and $25 billion through 2003. We believe that two additional rounds of BRAC will produce even more savings—an additional $3.6 billion each year after implementation. This translates directly into the programs, forces, and budgets that support our national military strategy. Without BRAC, we will not have the maximum possible resources to field and operate future forces while protecting quality of life for our military members. We will also be less able to provide future forces with the modern equipment that is central to the plans and vision we have for transforming the force.

The Department's April 1998 report to Congress demonstrates that 23 percent excess capacity exist. The Congressional Budget Office agrees that our approach to estimating excess capacity yields a credible estimate. The General Accounting Office also agrees that DOD continues to retain excess capacity.

The importance of BRAC goes beyond savings, however. BRAC is the single most effective tool available to the Services to realign their infrastructure to meet the needs of changing organizations and to respond to new ways of doing business. No other initiative can substitute for BRAC in terms of ability to reduce and reshape infrastructure. Simply stated, our military judgment is that further base closures are absolutely necessary.

BRAC will enable us to better shape the quality of the forces protecting America in the 21st century. As you consider the 2000 budget, we ask you to support this proposal.

Gen. HENRY H. SHELTON,
USA,
Chairman, Joint Chiefs of Staff;
Gen. JOSEPH W. RALSTON,
USAF,
Vice Chairman, Joint Chiefs of Staff;
Gen. DENNIS J. REIMER,
USA,
Chief of Staff, U.S. Army;

Adm. JAY L. JOHNSON,
USN,
Chief of Naval Operations;
Gen. MICHAEL E. RYAN,
USAF,
Chief of Staff, U.S. Air Force;
Gen. CHARLES C. KRULAK,
USMC,
Commandant of the Marine Corps.

Hon. CARL LEVIN,
Armed Services Committee, U.S. Senate, Washington, DC.

DEAR SENATOR LEVIN: This letter expresses our unqualified support for legislative authority this year to conduct future rounds of Base Realignment and Closure (BRAC).

Each of our services needs to reshape our base infrastructure to meet new mission requirements. As a practical matter, BRAC is the only tool we have available to divest ourselves of unneeded infrastructure, consolidate missions and free funds to improve priority programs on the scale that we know is required. These priority programs are the readiness, modernization and quality of life programs that support our people. Prudent management of our infrastructure requires us to stop spending critical funds on the estimated 23 percent excess base capacity we no longer need, so that we can focus our investments on those bases that support our 21st century missions. We must refocus to provide an efficient warfighting structure and to provide the quality of life that is essential to retention and recruitment.

The benefits of BRAC are real, significant and long lasting. The estimated net savings through 2003, over $25 billion, have already allowed us to better fund priority programs. The annual recurring savings of almost $6 billion, which the Congressional Budget Office considers reasonable, will allow us to further improve these programs well into the future. Additionally, we estimate two future BRAC rounds could provide almost $20 billion in savings through the implementation period and over $3.6 billion thereafter in annual recurring savings.

We remain fully committed to assisting communities recover economically from BRAC actions. Right now we are concentrating on initiatives to accelerate property transfer to further enhance economic redevelopment.

We ask that you support legislation for future BRAC rounds so we can continue readiness, modernization and quality of life improvements well into the 21st century.

RICHARD DANZIG,
Secretary of the Navy;
F. WHITTEN PETERS,
Acting Secretary of the Air Force;
LOUIS CALDERA,
Secretary of the Army.

Mr. LEVIN. Mr. President, as our chairman indicated, the committee spent a great deal of time addressing security concerns at the Department of Energy. The revelations of Chinese espionage directed at the DOE nuclear weapons program underscore 20 years of failure by the FBI and the Department of Energy, over the course of three administrations, to take adequate steps to address security problems in the Laboratories.

This problem has been ongoing for 20 years, through three administrations, and we have not seen, until a Presidential decision directive last year, an effort to significantly tighten security at the Laboratories.

We have in that Presidential decision directive, which is called PDD–61, a strong effort by this administration to tighten that security. What we do in this bill is to build on that effort, and we do so in a way which does not undermine the ability of the Department of Energy to perform its vital national security function.

I commend our chairman for his leadership in this effort. It is important that we do strengthen the security at the Department of Energy. It is important that we take the effort which finally was made when this administration signed a Presidential decision directive, and the President did so, but that we build additional safeguards which need to be in law.

Here is what we have done. We have written much of that Presidential decision directive into law. We have established an outside Commission on Safeguards, Security and Counterintelligence at the Department of Energy facilities. We have required a certification of the security aspects of the lab-to-lab and foreign visitors programs from the Secretary of Energy, the Director of the CIA, and the Director of the FBI.

The bill reported by our committee includes many other important provisions which will contribute to the national security and the effective management of the Department of Defense. Some of these provisions are: a provision establishing a single account for all Department of Defense funds to combat terrorism, both at home and abroad; a series of provisions to improve the effectiveness and efficiency of health care provided to service men and women under the TriCare Program; a provision promoting reform of Department of Defense financial management systems; a series of provisions promoting more effective management of defense laboratories and test and evaluation facilities; a provision extending the Department's mentor-protege program for small disadvantaged businesses.

I conclude by, again, thanking our new chairman, Senator WARNER, for the manner in which he and his staff have handled this bill. He has maintained a great tradition of this committee, working with all members to make sure that all voices are heard in the effort which will always be needed to protect the Nation's security.

I know there is going to be vigorous debate on some provisions of this bill. We hope that Senators will, indeed, come to the floor and offer their amendments so that we can complete Senate action on the bill in a timely manner and go to conference.

But whatever the outcome of the debate on specific amendments or the vehemence of that debate, I think I can say unequivocally that our chairman, following in the footsteps of Senator THURMOND, has done so with tremendous strength and has, in doing so, enhanced the security of this Nation.

I yield the floor.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I thank my colleague. I think his statement reflects the partnership in which we have worked and will continue to work.

We do urge Members to bring their amendments to the floor. Currently, we have the following—I share with my colleague, and I think he is aware of this: Senator ROBERTS has an amendment, Senator SPECTER has an amendment, and Senator ROTH has an amendment, the subject matter I am sure the Senator is familiar with.

It is the desire of the majority leader, and I presume with the concurrence of the minority leader, that votes on these amendments will occur not before 5:30, but as soon thereafter as we can package them and have them sequentially. So that is for the information of all Senators.

I now yield the floor.

I see our distinguished former chairman, the senior Senator from South Carolina.

Mr. THURMOND addressed the Chair.

Mr. LEVIN. Will the Senator yield for one moment?

Mr. WARNER. Yes.

Mr. LEVIN. Will the Senator yield for one moment?

Mr. THURMOND. Certainly.

Mr. LEVIN. I thank you.

I want to withhold comment on what the chairman just said in terms of sequencing votes, because we are checking with some Senators on this side who may wish to debate one or more of those amendments to which the Senator has referred. We have not seen final language on any of them, I do not believe, so I want to at least alert the chairman I would not want my silence to indicate concurrence in what he indicated and said until we have had a chance to review that. There is the possibility we would want to withhold votes on those until tomorrow, for instance, but we need to see the language on those amendments.

Mr. WARNER. Mr. President, we will provide our distinguished colleague with those amendments. I believe at the desk now is the Specter-Landrieu amendment. So one is before the Senate. I am now working with Senator ROBERTS on a revision of his. I presume that the Roth amendment is pretty well in final form. I hope someone can inform the Senator from Virginia as quickly as possible as to the text of the amendment.

I yield the floor.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Senator WARNER and Senator LEVIN and my colleagues, as the Senate begins consideration of the national defense authorization bill for fiscal year 2000, I join my colleagues on the Armed Services Committee in congratulating Chairman

WARNER and the ranking member, Senator LEVIN, on their leadership in preparing a strong, bipartisan defense bill.

As the former chairman of the Armed Services Committee, I am well aware of the challenges and demands they faced in the preparation of the bill and believe they acheived all the objectives the committee established at the start of the year.

At the Armed Services Committee hearing on September 29, 1999, General Shelton, the Chairman of the Joint Chiefs of Staff, stated:

> It is the quality of the men and women who serve that sets the U.S. military apart from all potential adversaries. These talented people are the ones who won the Cold War and ensured our victory in Operation Desert Storm. These dedicated professionals make it possible for the United States to accomplish the many missions we are called on to perform around the world every single day.

The national defense authorization bill for fiscal year 2000 ensures that our Armed Forces can continue to carry out their global responsibilities by focusing on readiness, future national security threats, and quality of life. I am especially pleased with the focus on the quality of life issues. Our military personnel and their families are expected to make great sacrifices and they deserve adequate compensation. Therefore, I strongly support the 4.8 percent pay raise, the changes in the retirement system, and the authority for military personnel to participate in the Thrift Savings Plan. These are critical provisions, which when coupled with the additional family housing and barracks construction, will result in a well-earned improvement in the standard of living for all of our military personnel.

During the past several years many Senators have raised the specter of the declining readiness of our Armed Forces. The administration had continually denied this assertion until last fall, when each of the Service Chiefs—I repeat, each of the Service Chiefs—acknowledged that readiness was in fact a serious problem within our Armed Forces.

General Reimer, the Army Chief of Staff stated: ''Your Army is underfunded today to adequately meet all the competing demands.''

The Chief of Naval Operations, Admiral Johnson, stated: ''I am deeply concerned that we are at the beginning of a free-fall in terms of readiness.''

And General Krulak, the Commandant of the Marine Corps, put it in these words: ''We are ready today, but in order to maintain readiness and the current budgetary shortfall and those of previous years, we are effectively mortgaging the readiness of tomorrow's Marine Corps.''

The defense bill before us is a significant step toward correcting the readiness issues identified by our Service Chiefs. It increases primary readiness accounts by more than $1.2 billion; it increases the procurement budget by more that $855 million and increases research and development by more than $200 million. Despite these significant funding increases, I must emphasize that they are but a first step toward reversing the readiness trends. We cannot be satisfied with these increases and ensure continued robust funding increases for these programs in future bills.

Since the fall of the Berlin Wall our Nation has faced ever changing threats. Among these are the spread of nuclear and weapons of mass destruction, international terrorism, and the ever increasing sophistication of weapons in the hands of countries throughout the world. The bill provides the funding for the Department of Defense and the Department of Energy to ensure that the Nation's military forces, both active and reserve, are prepared to counter these threats as we enter the new millennium.

As with all legislation, there are provisions in this bill that I did not support during the markup that I hope will be amended. Specifically, I am opposed to the provision that would limit the ability of the Federal Prison Industries to sell products to the Department of Defense and the provision in Title C of the bill regarding Tritium production. In my judgement, the Armed Services Committee is overstepping its jurisdiction by legislating on the Federal Prison Industries, which is under the purview of the Judiciary Committee. Regarding Tritium production, I am concerned that the provision has been weakened to the point where the reliability and viability of our Nation's nuclear weapon's stockpile may be at risk. Unless we have strong language to support the Secretary of Energy's decision to complete design for the Advanced Tritium Production source there is a strong possibility that those who oppose a reliable and effective nuclear stockpile will delay tritium production beyond the time we need tritium.

I have previously congratulated the chairman and ranking member for their work on this bill. Before closing, I want to congratulate each of the subcommittee chairmen: Senator SMITH, Senator INHOFE, Senator SNOWE, Senator SANTORUM, Senator ROBERTS, and Senator ALLARD, and the ranking members for their contribution to this bill. Their leadership and work provided the foundation for this legislation. Finally, I believe it is important that we recognize Les Brownlee and David Lyles for their leadership of a very professional and bipartisan staff. I desire to thank Col. George Lauffer for his fine work.

This national defense authorization bill is a strong and sound bill. I intend to support it and urge my colleagues to join me in showing our strong support for the bill and our men and women in uniform.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, we thank our distinguished former chairman for that powerful statement. His firm hand and leadership are very much a part of the everyday activities of the Senate Armed Services Committee. I can think of no Member of this body who has served in uniform longer than our distinguished colleague, who entered, in my recollection, through the Army Reserve. I was there at a ceremony.

What was the year that you entered the Army Reserve, Senator? Anyway, way back——

Mr. THURMOND. What was the question?

Mr. WARNER. What was the year you entered the Army Reserve? I remember I was there when we recognized——

Mr. THURMOND. I finished college in 1923 and became 21 years of age in December of that year.

Mr. WARNER. Isn't that interesting. I remember when we gathered on the steps of the west front of the Capitol to recognize the Senator for his service. He fully understands the commitments made by men and women in the Armed Forces through several generations. That historical knowledge has been brought to bear many times on the decisionmaking responsibilities of the Senate Armed Services Committee.

Mr. THURMOND. Thank you very much.

Mr. WARNER. Mr. President, seeing no other Senator at the moment seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WARNER. 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. WARNER. Mr. President, I ask unanimous consent that Bill Adkins, a legislative fellow of Senator ABRAHAM's staff, be granted floor privileges during the consideration of S. 1059.

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

Mr. ROBERTS addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

AMENDMENT NO. 377

(Purpose: To express the sense of the Senate regarding the legal effect of the new Strategic Concept of NATO)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Kansas [Mr. ROBERTS], for himself, proposes an amendment numbered 377.

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

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

The amendment is as follows:

In title X, at the end of subtitle D, add the following:

SEC. 1061. SENSE OF SENATE REGARDING LEGAL EFFECT OF THE NEW STRATEGIC CONCEPT OF NATO.

(a) SENSE OF SENATE.—It is the sense of the Senate that—

(1) not later than 30 days after the date of enactment of this Act, the President should determine and certify to the Senate whether or not the new Strategic Concept of NATO imposes any new commitment or obligation on the United States; and

(2) if the President certifies under paragraph (1) that the new Strategic Concept of NATO imposes any new commitment or obligation on the United States, the President should submit the new Strategic Concept of NATO to the Senate as a treaty for the Senate's advice and consent to ratification under Article II, Section 2, Clause 2 of the Constitution of the United States.

(b) DEFINITION.—For the purposes of this section, the term ''new Strategic Concept of NATO'' means the document approved by the Heads of State and Government participating in the meeting of the North Atlantic Council in Washington, D.C., on April 23 and 24, 1999.

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

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

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

AMENDMENT NO. 378 TO AMENDMENT NO. 377

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for himself, proposes an amendment numbered 378 to Amendment No. 377.

Mr. WARNER. 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:

(c) REPORT.—Together with the certification under subsection (a)(1), the President should submit to the Senate a report containing an analysis of the potential threats facing NATO in the first decade of the next millennium, with particular reference to those threats facing a member nation or several member nations where the commitment of NATO forces will be ''out of area'', or beyond the borders of NATO member nations.

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

Mr. ROBERTS addressed the Chair.

The PRESIDING OFFICER (Mr. BUNNING). The Senator from Kansas is recognized.

AMENDMENT NO. 377

Mr. ROBERTS. Mr. President, before I make remarks on behalf of the amendment, which pretty well dovetails the second-degree amendment introduced by the distinguished chairman of the committee, I would like to pay a deserved tribute to our distinguished chairman, the Senator from Virginia, for his leadership in forging a defense bill during a time of great, great challenge.

During a time when our military is stressed, strained, and some of us believe hollow, our Nation needs those who will take a stand—a stand, if you will—to really try to fulfill the first obligation of our Federal Government, and that is to safeguard our national security.

Our new chairman of the Senate Armed Services Committee, in the tradition of Senator THURMOND, has been the right man at the right time for the right job. He has, without question, reaffirmed the standing of the influence of the committee. He has actually given the committee—in this case, the creation of a new Emerging Threats and Capabilities Subcommittee—a chance to take a look at really what our Nation faces in terms of our national security threat in the post-cold-war period. I want to thank him publicly for discussing with me the possibility of being the chairman of that committee and for that appointment.

I think the thing I want to mention the most in regard to the chairman's leadership and also that of Senator LEVIN is the pay raise and retirement reform contained in this bill. After hearing from the Joint Chiefs and knowing that we have a crisis in regard to retention of our men and women in uniform, the chairman, actually during the impeachment process, sat us down to work and really hit the ground running.

Despite the criticism of those who wanted a much larger bill, a more comprehensive bill, to address all of the problems that we face in the military—and, by the way, I mention that these challenges include the quality of life issues, the health care issues, the issue of the operations tempo, the issue of the personnel tempo, and then that of mission quality. There are those who said, we are not quite sure that this pay raise or this retirement reform will really address the retention problem. There are others who said they wanted to study it further. I suggest to them that if we studied it actually further, we would be in such a problem with retention we would be past the marrow of the bone.

JOHN WARNER really took the issue by the horns and provided the leadership. We are sending a message to every man and woman in uniform, saying that we care. And we took action, as I said before, despite the impeachment proceedings and despite a very, very busy schedule here in this Congress.

So thank you to JOHN WARNER and also to Senator LEVIN, whose expertise in regard to his oversight and his policy actually keeps the committee with very strong leadership. It is a privilege to serve with both Senators. I will make a statement at a later time in regard to the efforts by Senator BINGAMAN, who is the distinguished ranking member of the Emerging Threats Subcommittee, and what we think we have been able to achieve.

Mr. President, I rise with the support of the chairman of the committee, as well as my colleague from Georgia, Senator CLELAND, to offer an amendment to this bill, S. 1059. It is my hope that this amendment will reaffirm the Senate's important responsibility of either rejecting or consenting to fundamental changes in the letter and spirit of existing treaties—in particular, when those changes actually broaden the nature of U.S. military missions, responsibilities, and obligations overseas.

I ask my colleagues' support for a simple sense-of-the-Senate resolution that calls for complete transparency on the part of the President and Senate consideration in regard to the de facto editing of the original North Atlantic Treaty.

My sense-of-the-Senate simply asks the President to certify whether the new strategic concept of NATO, this formalization of new and complicated United States military responsibilities in Europe, as evidenced by the war in Kosovo and the possibility of future Kosovos around the world, is in fact a document that obligates the United States in any way, shape, or form. If so, my sense-of-the-Senate affirms that this body be given the opportunity to debate, accept, or reject the new blueprint for future NATO actions. These future actions will undoubtedly include substantial components of our own Armed Forces engaged completely outside the province of the original treaty. We see this today in regard to the ongoing operations in Bosnia, Albania, Macedonia, and over the Federal Republic of Yugoslavia. These deployments are dominated by U.S. forces, ostensibly because of our responsibilities as a NATO member.

During the cold war, the Congress and the American people believed the original Nato Treaty was in our vital national security interest. I am not so sure we know now whether these new NATO missions meet that important criteria for the possibility of spilling American blood and treasure. There has been a transformation Mr. President, and, while yes the world has transformed since 1949, Congress still needs to be given the opportunity to formally consider and endorse what we're signing up for and committing to do in Europe and elsewhere around the world. Given this situation, I believe it is imperative the Senate ask the President to formally certify whether the new Strategic Concept, which was adopted during the 50-year anniversary here in Washington about a month ago, represents commitments by the United States, and, if so, submit the document for formal congressional scrutiny.

Let's be honest with the American people, Mr. President. If the new Strategic Concept of 1999 is the particular direction we're headed in regards to Europe, let's give this body and the

American people a chance to formally agree or disagree. If only for budgeting reasons, let's understand what we are committing to do so we can plan and budget for it.

In this discussion, we must not lose sight of the fact that NATO is a military alliance and the new Strategic Concept of 1999 is its guide for the 21st century. This is a very important document the nineteen nations of NATO have drafted and I encourage every Senator to examine it closely, comparing it with the original North Atlantic Treaty. I believe Senators will find that the new Strategic Concept of 1999 document is completely inconsistent with the spirit of the original treaty in critical areas. That means the treaty has been changed, albeit rather quietly, during the 50-year anniversary celebration, and the United States has formally committed to a new strategic direction in Europe.

It's time for the Senate to stop, take notice of what is happening to NATO, and go on record asserting its constitutional role.

Through the new Strategic Concept of 1999, President Clinton, along with the member nations of NATO, has quite possibly taken the commonsense notion of mutual consultation for self-defense purposes implicit in Article Four of the original NATO Treaty and altered substantially the very purpose of the NATO Alliance from one of collective self-defense of member territory to international crisis management and humanitarian relief operations. As a matter of fact, I think the Strategic Concept is reflective for the most part in reference to a speech the President gave over 2 years ago at The Hague outlining what he thought the Strategic Concept and the new goals of NATO should be.

Additionally, I believe the new Concept document is not merely a tool for justifying existing extraterritorial NATO deployments of American military forces, but is a precedent toward formalizing as U.S. policy the lazy tendency of this Administration and yes, others to rely increasingly on the military services to solve social and political problems in Europe and elsewhere. Problems, I would say, Mr. President, for which other instruments of power are clearly better suited for those tasks.

I want to assure my colleagues, Mr. President, I have decided to submit my amendment as a Sense of the Senate because my objective is not to brazenly force the President to do something he, in his authority as Chief Executive to represent the nation in foreign affairs, has decided not to do or would not do. However, I am trying to encourage the Administration to be clear with the Congress and the American people—indeed to seek our consent and the public's approval—in regards to this national security policy divergence.

I am sure opponents of my amendment will argue that the new Strategic Concept of 1999 is only that, a concept, an intellectual exercise, mere musings as to future security challenges in the North Atlantic region. I disagree. My colleagues, do not let the title fool you! The 65-point document states its intent is to be a ''guide that expresses NATO's enduring purpose and nature and its fundamental security tasks, identifies the central features of the new security environment, specifies the elements of the Alliance's broad approach to security, and provides guidelines for the further adaptation of its military forces.'' That is a direct quote.

For a Congress constitutionally required to provide funding for and oversight to the Departments of State and Defense, those are specific purposes and very clear intentions.

I am sure some opponents will also argue that regardless of the specificity of the new Strategic Concept, it is not a formal treaty and therefore should not be sent to the Senate. I really think that is putting the cart before the horse. First, let's get our definitions straight. The U.S. Department of State Circular 175, Procedures on Treaties, defines a treaty as ''an international agreement regardless of title, designation, or form whose entry into force with respect to the United States takes place only after the Senate has given its advice and consent.''

I will certainly concede that the new Strategic Concept is not a treaty per se, that that is only because the Senate has not given nor had an opportunity to give its advice and consent. If we formally adopted the logic that the President should only send actual treaties to the Senate, the treaty clause of article II of the Constitution would become irrelevant, contrary to the framers' intent.

My point is that the decision of the President to submit an international agreement to the Senate is largely a political decision. Nonetheless, when a document tacitly commits the United States to a new strategic direction in Europe, it should contain the Senate's stamp of approval. It does not have it.

Opponents of my amendment will further argue that the new Concept is not even an international agreement, much less a potential treaty. I believe any document that contains even tacit commitment by the United States and other nations to engage in new types of NATO missions outside the domain of the original treaty, as well as the commitment to structure military forces accordingly, can be considered an international agreement.

Incidentally, the U.S. Department of State Circular 175, Procedures on Treaties, also sets forth eight considerations available for determining whether an agreement or an accord should be submitted to the Senate for ratification. Among them: The extent to which the agreement involves commitments or risks affecting the Nation as a whole—if that is not a description of Kosovo, I do not know what it is—whether the agreement can be given effect without the enactment of subsequent legislation by the Congress; past U.S. practices as to similar agreements and the preference of Congress as to a particular type of agreement.

In mentioning these criteria, I must note that last year Senators CLELAND, SNOWE, and I attempted to clarify administration policy in the use of military force by attaching several consulting requirements to fiscal year 1999 defense spending legislation.

My question is: In order to determine what the strategic plan is, what our obligations are, what we are doing in Kosovo and other areas of the world, does that have to be done each year? Let's get the Senate involved at the outset. It is the Strategic Concept that is at the genesis of this kind of policy.

The first State Department consideration is the most significant for purposes of our discussion. I genuinely believe that the new Strategic Concept of 1999 and its predecessor document, without question, involved commitments and risks affecting the Nation as a whole. In fact, I could not have put it more succinctly. That is one of the reasons our distinguished chairman, Senator WARNER, wrote to the administration on this issue as the recent NATO summit, the 50-year anniversary, approached. He knew the document's revision was very imminent. He wanted to have a debate here in the Congress before moving forward with the other 19 nations. I commend our chairman for his knowledge, his foresight, and his leadership on this issue.

As for the second State Department consideration I mentioned, the new Concept of 1999 probably cannot be given effect without the enactment of subsequent legislation by the Congress—without, that is, huge defense appropriation and authorization acts that try to balance the readiness and the modernization and quality-of-life requirements which this bill tries to address with numerous peacekeeping enforcement missions.

Members on both sides of the aisle may also argue—in good faith, I might add—that the Resolution of Ratification for an expanded NATO which passed this body last spring contained conditions for revising NATO's Strategic Concept which effectively constitute a Senate endorsement of the new Strategic Concept of NATO.

Again, I disagree. When we compare the actual text of the new Concept and the Resolution of Ratification adopted only last year, not only do we see the complete abandonment of the original 1949 treaty, but it is also a document that has gone way beyond what the Senate actually intended.

Section 3 of the Resolution of Ratification as passed by the Senate April 30 of last year contained the following conditions for the new Strategic Concept. Let's compare these with the Concept document. The Ratification Resolution stated:

(1) The strategic concept of NATO: (A) Policy of the United States toward the strategic concept of NATO—the upcoming revision of

that document will reflect the following principles:

(i) First and foremost a military alliance: NATO is first and foremost a military alliance. NATO's success in securing peace is predicated on its military strength and strategic unity.

(ii) Principal foundation for defense of security interests of NATO members: NATO serves as the principal foundation for collectively defending the security interests of its members against external threats.

However, Senators, I urge you to read this—this document is on your desks—in the Strategic Concept adopted at the 50th anniversary celebration in Washington last month:

Strategic Concept point #24: Any armed attack on the territory of the Allies, from whatever direction, would be covered by Articles 5 and 6 of the Washington Treaty. However, Alliance security must also take account of the global context [emphasize the word ''global'']. Alliance security interests can be affected by other risks of a wider nature, including acts of terrorism, sabotage, organized crime, and by the disruption of the flow of vital resources. The uncontrolled movement of large numbers of people, particularly as a consequence of armed conflicts, can also pose problems for security and stability affecting the Alliance. Arrangements exist within the Alliance for consultation among the Allies under Article 4 of the Washington Treaty and, where appropriate, co-ordination of their efforts including their responses to risks of this kind.

I must point out, that last phrase is completely original. There is nothing in article 4 of the original NATO treaty even remotely similar to the term ''the coordination of their efforts including their responses to risks of this kind.'' It is just not there. I cannot imagine more substantive change to the NATO treaty than adding a collective response obligation for the United States to respond to terrorism and other asymmetrical threats not only in Europe but all around the globe.

The Resolution of Ratification continues—again, that was the expansion treaty that was passed as of last year:

(iii) Promotion and protection of United States vital national security interests: Strong United States leadership of NATO actually promotes and protects United States vital national security interests.

(iv) United States leadership role: [Now, this is in last year's language in regard to the ratification of the expansion.] The United States maintains its leadership role in NATO through the stationing of United States combat forces in Europe, providing military commanders for key NATO commands, and through the presence of United States nuclear forces on the territory of Europe.

However, 1 year later in the Strategic Concept, point No. 18 —and I urge Senators to pay attention to it:

As stated in the 1994 Summit declaration and reaffirmed in Berlin in 1996, the Alliance fully supports the development of the European Security and Defense Identity (ESDI) within the Alliance by making available its assets and capabilities for Western European Union (WEU)-led operations. To this end, the Alliance and WEI have developed a close relationship and put into place key elements of the ESDI as agreed in Berlin. In order to enhance peace and stability in Europe and more widely, the European Allies are strengthening their capacity for action, including by increasing their military capabilities. The increase of the responsibilities and capacities of the European Allies with respect to security and defense enhances the security of the environment of the Alliance.

Now, Mr. President, the WEU will be using NATO military equipment paid for by the taxpayers of the United States. That may be proper, that may be a role for NATO, but I think we need to review that proposal.

The Resolution of Ratification of last year does continue:

(v) Common threats: NATO members will face common threats to their security in the post-Cold War environment including—

(I) the potential for the re-emergence of a hegemonic power confronting Europe;

(II) rogue states and non-state actors possessing nuclear, biological, or chemical weapons and the means to deliver these weapons by ballistic or cruise missiles, or other unconventional delivery means;

(III) threats after wider nature, including the disruption of the flow of vital resources, and other possible transnational threats; and

(IV), conflict in the North Atlantic area stemming from ethnic and religious enmity, the revival of historic disputes, and the actions of undemocratic leaders.

All that was contained in the language when we ratified the expansion in regard to that treaty last year, 1 year later.

Strategic Concept point #20: The security of the Alliance remains subject to a wide variety of military and non-military risks which are multi-directional and often [very] difficult to predict. These risks include social and political difficulties, ethnic and religious rivalries, territorial disputes, inadequate or failed efforts at reform, the abuse of human rights, and the dissolution of states can lead to local and even regional instability. The resulting tensions could lead to [the] crises affecting [the] Euro-Atlantic stability, to human suffering, and to armed conflicts.

Nonmilitary risks, Mr. President? Inadequate or failed efforts at reform? What are we talking about? I do not recall those phrases in the Resolution of Ratification. Why would a military alliance such as NATO care about a nonmilitary risk? What is a nonmilitary risk anyway?

The Resolution of Ratification continues, as of last year:

(vi) Core mission of NATO: Defense planning will affirm a commitment by NATO members to a credible capability for collective self-defense, which remains the core mission of NATO. All NATO members will contribute to this core mission.

No argument there. That is the historical purpose of NATO and that is collective security.

One year later, with the Strategic Concept, while they were popping champaign corks in regard to NATO being 50 years old:

Strategic Concept point #10: To achieve its essential purpose, as an Alliance of nations committed to the Washington Treaty and the United Nations Charter, the Alliance performs the following fundamental security tasks:

Deterrence and defense: To deter and defend against any threat of aggression against any NATO member state as provided for in Articles 5 and 6 of the Washington Treaty.

Crisis management: To stand ready, case-by-case and by consensus, in conformity with Article 7 of the Washington Treaty, to contribute to effective conflict prevention and to engage actively in crisis management, including crisis response operations.

I am glad to see that deterrence and defense is still there. But, again, this emphasis on conflict prevention and crisis management is extremely disconcerting and not consistent with the Resolution of Ratification that was passed in the Senate as of last year.

The Resolution of Ratification continues—we are talking about section 7:

(vii) Capacity to respond to common threats: NATO's continued success requires a credible military capability to deter and respond to common threats. Building on its core capabilities for collective self-defense of its members, NATO will ensure that its military force structure, defense planning, command structures, and force goals promote NATO's capacity to project power when the security of a NATO member is threatened, and provide a basis for ad hoc coalitions of willing partners among NATO members. This will require that NATO members possess national military capabilities to rapidly deploy forces over long distances, sustain operations for extended periods of time, and operate jointly with the United States in high intensity conflicts.

However, 1 year later, in the Strategic Concept point No. 49:

In contributing to the management of crises through military operations, the Alliance's forces will have to deal with a complex and diverse range of actors, risks, situations and demands, including humanitarian emergencies. Some non-Article 5 crisis response operations may be as demanding as some collective defense missions. Well-trained and well-equipped forces at adequate levels of readiness and in sufficient strength to meet the full range of contingencies as well as the appropriate support structures, planning tools and command and control capabilities are essential in providing efficient military contributions.

I do not know how this Nation is to fund, structure, and train U.S. military forces to manage parochial crises in Europe, no matter how small, through military operations. Nor do I think that is the best use of our forces, if you consider already we must meet the two major regional conflict response thresholds within serious budget constraints.

Again, I do not see this use of military forces endorsed in the Resolution of Ratification that the Senate passed last year. The Resolution of Ratification does continue:

The fundamental importance of collective defense:

This was last year.

The Senate declares that—

(i) in order for NATO to serve the security interests of the United States, the core purpose of NATO must continue to be the collective defense of the territory of all NATO members; and

(ii) NATO may also, pursuant to Article 4 of the North Atlantic Treaty, on a case-by-case basis, engage in other missions where there is a consensus among its members that there is a threat to the security and interests of NATO members.

However, once again, in the Strategic Concept, 1 year later, at the celebration, the 50-year celebration, No. 48:

The maintenance of the security and stability of the Euro-Atlantic area is of key importance. An important aim of the Alliance and its forces is to keep risks at a distance by dealing with potential crises at an early age. In the event of crises which jeopardize Euro-Atlantic stability and could affect the security of Alliance members, the Alliance's military forces may be called upon to conduct crisis response operations. They may also be called upon to contribute to the preservation of international peace and security by conducting operations in support of other international organizations, complementing and reinforcing political actions within a broad approach to security.

What do we mean by this—''keep risks at a distance by dealing with potential crises at an early stage''? Isn't that the job of diplomacy? Anyway, the list of inconsistencies between the Resolution of Ratification and the new Strategic Concept of 1999 goes on and on and on.

I have taken a great deal of time of the Senate and my colleagues to be specific about this. Even if they were more consistent, it does not change the fact that the Strategic Concept of 1999 fundamentally alters the nature and the domain of the original treaty that this Senate ratified just a year ago.

So, in closing, I think my bipartisan amendment, warrants support because it is time to go on record that the Senate insists that changes to the original scope and purpose of the alliance go through proper channels, specifically article II, section 2, clause 2 of the U.S. Constitution.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, this amendment, which the Senator and I refer to as the Roberts-Warner amendment, is one which obviously I strongly support.

I first ask unanimous consent that correspondence the Senator from Virginia had with the President of the United States be printed in the RECORD at the conclusion of my remarks.

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

(See Exhibit 1.)

Mr. WARNER. I commend the Senator. We have been working on parallel tracks on this issue for some months now. I cannot think of a more important amendment that will be added to this bill than the one of which my distinguished colleague from Kansas is the principal sponsor. At this very moment, well over half of the tactical aircraft are being operated by U.S. air men and women; well over 70 percent of the support aircraft, the tankers, the intelligence aircraft and all of those, the spotters and the like, are being operated by U.S. airpersons.

It is the Strategic Airlift Command which is heroically—together with the Air Guard, I add, which, of course, is part of that command—carrying out the vast preponderance of the missions associated with airlift in this operation in Kosovo.

If there is one thing this operation tells us, it is that future conflicts are becoming more and more dependent on modern technology. The weapons being employed in this air-only campaign are guided missiles, again predominantly provided by the United States.

The other nations of NATO, for whatever reasons, simply have not equipped themselves or trained their personnel in sufficient numbers to conduct an operation of this magnitude. That is not in any way to detract from their courage in flying their missions, and approximately eight other nations are joining in this air operation. Whether they are single aircraft, or two aircraft or one mission a day—whatever it is—they are an integral part. I salute them, and I respect them, but statistically, it is the taxpayers of the United States and it is the young men and women wearing the uniform of the United States who are carrying the brunt of this operation.

The Senator brings to the attention of the Senate that at this 50th anniversary summit conference, this document, to which he has referred several times, was adopted. In any reading of this document by this Senator, and I think any other Senator, it will clearly show that it is the intention of the summit to push beyond the horizon of the original NATO of 1949, to push beyond the horizon of the 1991 Strategic Concept the potential missions of this historic organization.

It is the absolute fundamental right of the Senate, under the treaty clause of the Constitution, to review in detail, and I say carefully, what is proposed—I repeat, proposed—by the 50th anniversary summit.

The Senate Armed Services Committee will conduct a series of hearings once the hostilities and the risk of NATO forces is in one way or another—I hesitate to use the word ''terminated'' because I am not certain if that word is applicable to this situation which in itself is so filled with uncertainty, but whenever the hostilities are contained to the point where the Armed Services Committee can begin to look at what went right and what went wrong in the conduct of the military operations and, most particularly—most particularly—this consensus by the 19-nation doctrine by which this operation has been, is, and will be conducted for an indefinite period of time.

I first became concerned about this new doctrine early this spring. I wrote to the President on April 7 urging him not to allow the summit to ''finalize''—that is the word I used—or write in stone, I said at that time, a new Strategic Concept. Why not just wait until the Kosovo operation gets to that point where hopefully hostilities have subsided and you sit down and study that operation, and from that study you would be better able to devise what NATO should do in the future regarding comparable operations.

I said:

The intent of this letter is to give you my personal view that a final decision by NATO on the Strategic Concept should not be taken—risked—against the uncertainties emanating from the Kosovo situation. The United States and our allies will have many lessons learned to assess as a pivotal part of the future Strategic Concept. Bosnia and Kosovo have been NATO's first forays into aggressive military operations. As of this writing——

That is April 7—

the Kosovo situation is having a destabilizing effect on the few gains made to date in Bosnia. This combined situation must be carefully assessed and evaluated before the United States and our allies sign on to a new Strategic Concept for the next decade of NATO.

Unfortunately, the President disagreed with my assessment, and on April 24, NATO went on to finalize a new Strategic Concept, and that document has been discussed in length by my colleague.

The main difference in the security tasks identified in the 1991—Mr. President, about every decade, NATO seems to get down to revising its future missions, and the 1991 document was clearly out of date. It still referred to the threat from the Soviet Union. So time had come, of course, to revise it. All I said is let's just wait a reasonable period of time and assess the lessons learned and let the American people give direction to the President and give direction to the Congress if, in fact, they want to be part of a military alliance where certainly in this operation well over half of it is being conducted by their own sons and daughters, and the price to be paid is still unknown. It will be heavy and it will be paid by the American taxpayers.

I recently had a very distinguished former Secretary of Defense write and tell me: Assess the costs being borne by the United States and the other NATO nations and that will be, I say to my former friend, the Secretary of Defense many years ago, that will be a central focal point of the hearings by this committee in the future.

But those costs are going to be enormous to the American taxpayers. We first have the risk to the men and women of our country, the disproportionate contribution by our military assets, and the costs that will be allocated to the American taxpayer.

Back to my letter to the President. I said that we can wait another 2 or 3 months. We have waited since 1991. Why do we have to rush into another one? But the President, in his letter, declined to do it.

The main difference in the security tasks identified in the 1991 Strategic Concept and the document adopted this April is the addition of a ''crisis management'' task, and an emphasis on non-article 5 crisis operations. Non-article 5 operations were not even mentioned in the 1991 Strategic Concept.

I say to my colleague from Kansas, they were not even mentioned, but they are written throughout this new one which was promulgated this April. I will read one paragraph:

The security of all allies is indivisible. An attack on one is an attack on all. With respect to collective defense under article 5 of the Washington Treaty—

Of course, that is the 1949 treaty—

the combined military forces of the alliance must be capable of deterring any potential aggression against it, of stopping an aggressor's advance as far forward as possible should an attack nevertheless occur and assuring the political independence and territorial integrity of its member states.

Here is the key sentence:

They must also be prepared to contribute to conflict prevention and to conduct a non-article 5 crisis response operation.

That means going beyond the territorial boundary of the 19 nations.

The vote of the American people through its elected Members of the Senate is absolutely essential before we sign on to such a mission. I commend my colleague for bringing that to the attention of the Senate in the form of this amendment.

According to the new Strategic Concept, the alliance is tasked ''to stand ready, case-by-case by consensus . . . to contribute to effective conflict prevention, and to engage actively in crisis management, including crisis response operations.

Kosovo is an example of a non-article 5 crisis response operation.

EXHIBIT 1

COMMITTEE ON ARMED SERVICES,
Washington, DC, April 7, 1999.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: The Administration, in consultation with our NATO allies, is now finalizing various documents to be submitted to the Heads of State for ratification at the upcoming 50th anniversary NATO Summit to be held in Washington later this month. A key decision, in my view the most important one, is the revision of the Strategic Concept for the future—perhaps a decade—that will guide NATO in its decision making process regarding the deployment of military forces.

I am recommending, Mr. President, that a draft form of this document be reviewed by the principals, but not finalized, at this 50th anniversary Summit. Given the events in Kosovo, a new Strategic Concept for NATO—the document that spells out the future strategy and mission of the Alliance—should not be written 'in stone' at this time. Instead, NATO leaders should issue a draft Strategic Concept at the Summit, which would be subject to further comment and study for a period of approximately six months. Thereafter, a final document should be adopted.

NATO is by far the most successful military alliance in contemporary history. It was the deciding factor in avoiding widespread conflict in Europe throughout the Cold War. Subsequent to that tense period of history, NATO was, again, the deciding factor in bringing about an end to hostilities in Bosnia, and thereafter providing the security essential to allow Bosnia to achieve the modest gains we have seen in the reconstruction of the economic, political and security base of that nation.

Now NATO is engaged in combating the widespread evils of Milosevic and his Serbian followers in Kosovo.

I visited Kosovo and Macedonia last September and witnessed Milosevic's repression of the Kosovar Albanians. Thereafter, I spoke in the Senate on the essential need for a stabilizing military force in Kosovo to allow the various international humanitarian organizations to assist the people of Kosovo—many then refugees in their own land, forced into the hills and mountains by brutal Serb attacks. Since then, I have consistently been supportive of NATO military action against Milosevic.

Unfortunately, it is now likely that the NATO Summit will take place against the background of continuing, unfolding events relating to Kosovo. At this time, no predictions can be made as to a resolution.

We are just beginning to learn important lessons from the Kosovo conflict. Each day is a new chapter. For example, NATO planners and many in the Administration, and in Congress, have long been aware of the disparities in military capabilities and equipment between the United States and our allies. Now, the military operation against Yugoslavia has made the American people equally aware and concerned about these disparities. The U.S. has been providing the greatest proportion of attack aircraft capable of delivering precision-guided munitions. Further, the United States is providing the preponderance of airlift to deliver both military assets (such as the critically needed Apache helicopters and support equipment) and humanitarian relief supplies, the delivery of which are now in competition with each other.

Until other NATO nations acquire, or at least have in place firm commitments to acquire, comparable military capabilities, the United States will continually be called on to carry the greatest share of the military responsibilities for such 'out of area' operations in the future. This issue must be addressed, and the Congress consulted and the American people informed.

It is my understanding that the draft Strategic Concept currently under consideration by NATO specifically addresses NATO strategy for non-Article 5, 'out of area' threats to our common interests—threats such as Bosnia and Kosovo. According to Secretary Albright in a December 8, 1998 statement to the North Atlantic Council, 'The new Strategic Concept must find the right balance between affirming the centrality of Article V collective defense missions and ensuring that the fundamental tasks of the Alliance are intimately related to the broader defense of our common interests.' Is this the type of broad commitment to be accepted in final form, just weeks away at the 50th anniversary Summit?

During the Senate's debate on the Resolution of Ratification regarding NATO expansion, the Senate addressed this issue by adopting a very important amendment put forth by Senator Kyl. But this was before the events in Kosovo. The lessons of Kosovo could even change this position.

The intent of this letter is to give you my personal view that a 'final' decision by NATO on the Strategic concept should not be taken—risked—against the uncertainties emanating from the Kosovo situation.

The U.S. and our allies will have many ''lessons learned'' to assess as a pivotal part of the future Strategic Concept. Bosnia and Kosovo have been NATO's first forays into aggressive military operations. As of this writing, the Kosovo situation is having a destabilizing effect of the few gains made to date in Bosnia. This combined situation must be carefully assessed and evaluated before the U.S. and our allies sign on a new Strategic Concept for the next decade of NATO.

A brief period for study and reflection by ourselves as well as our Allies would be prudent. NATO is too vital for the future of Europe and American leadership.

With kind regards, I am

Respectfully,

JOHN WARNER,
Chairman.

THE WHITE HOUSE,
Washington, DC, April 14, 1999.

Hon. JOHN W. WARNER,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your thoughtful letter on the upcoming NATO summit and the revised Strategic Concept. I appreciate your attention to these important issues, and I agree strongly with your view that NATO's continued vitality is essential to a safeguarding American and European security.

I have thought carefully about your proposal to delay agreement on the revised Strategic Concept in light of NATO's military operations in Kosovo. While I share your deep concern about the situation in Kosovo and the devastating effects of Serb atrocities, I am convinced that the right course is to proceed with a revised Strategic Concept that will make NATO even more effective in addressing regional and ethnic conflict of this very sort. Our operations in Kosovo have demonstrated the crucial importance of NATO being prepared for the full spectrum of military operations—a preparedness the revised Strategic Concept will help ensure.

The Strategic Concept will reaffirm NATO's core mission of collective defense, while also making the adaptations needed to deal with threats such as the regional conflicts we have seen in Bosnia and Kosovo as well as the evolving risks posed by the proliferation of weapons of mass destruction. It will also help ensure greater interoperability among allied forces and an increased European contribution to our shared security. The Strategic Concept will not contain new commitments or obligations for the United States but rather will underscore NATO's enduring purposes outlined in the 1940 North Atlantic Treaty. It will also recognize the need for adapted capabilities in the face of changed circumstances. This approach is fully consistent with the Kyl Amendment, which called for a strong reaffirmation of collective defense as well as a recognition of new security challenges.

The upcoming summit offers a historic opportunity to strengthen the NATO Alliance and ensure that it remains as effective in the future as it has been over the past fifty years. While the situation in Kosovo has presented difficult challenges, I am confident that NATO resolve in the face of this tyranny will bring a successful conclusion.

Your support for the NATO Alliance and for our policy in Kosovo has been indispensable. I look forward to working closely with you in the coming days to ensure that the summit is an overwhelming success.

Sincerely,

BILL CLINTON.

Mr. WARNER. I assure the Senate that we will deliberate this amendment tomorrow again, I say to the Senator. We are not able to complete it today due to the absence of several colleagues and the fact that right now the Nation's capital is engulfed in a series of storms preventing a number of our Members from returning. Also, I think it is important that every Member of the Senate hear the words of the Senator from Kansas and others about this very important amendment.

Mr. ROBERTS. Would the distinguished chairman yield for several questions?

Mr. WARNER. Yes.

Mr. ROBERTS. I thank the distinguished chairman for his very kind comments.

Would it be helpful, I ask the distinguished chairman, if Members of this body would know that the same basic feeling exists in regards to the British Parliament in the House of Lords?

Mr. WARNER. I think that is a very important point.

Mr. ROBERTS. I have a statement here by a member of the Parliament. Menzies Campbell says:

. . .''It is a matter of considerable regret that the House of Commons has never debated properly the issues surrounding the NATO Strategic Concept.'' He argued that, ''Parliament should have had the opportunity to consider matters such as NATO's right of independent action without Security Council authority and further expansion of the alliance and its consequences.''

He said that:

Foreign and security policy is the responsibility of the government, but the legislature is surely entitled to express its views.

This was also true in regards to the statement by Lord Wallace of Great Britain in the House of Lords.

. . .''no intelligent debate''. . .it is ''quite astonishing that we allow British defence strategy to be structured by an international organisation without any form of input and debate by our Parliament.''

Then he went on to say, in drawing the example here in the Senate:

Both Republicans and Democrats. . .argue that the. . . [overemphasis on] the enlargement issue in the run-up to NATO's 50th anniversary celebration. . .came at the expense of any meaningful debate over the evolution of NATO and the role that the. . .Alliance will play in the 21st century.

If I could ask my distinguished chairman, would he recall the many times that we have had briefings in regards to the situation in Kosovo and the question over and over again that was posed prior to the bombing: Would this be in our vital national security interest?

I know the Senator asked that question many times. I know that the distinguished Senator from Utah, Mr. BENNETT, who made a very eloquent speech in this Chamber this morning, asked that question. I tried to ask the question in regards to an amendment to the defense appropriations bill last year. I said: Before we would actually commit any troops under this ever-changing concept in that part of the world, would the administration please answer eight questions—as to cost, purpose, exit strategy, end game, and et cetera, et cetera?

That public law requirement was not addressed for 6 months. I am worried about the future of NATO, I would say to my distinguished friend. I know the chairman is. I think that Kosovo is a rock that has hit the NATO windshield, and it has been like shattered glass. It does not matter if you feel that involvement is a fine mess we have gotten into or whether or not we think that this policy is the right policy.

I am sure the distinguished chairman—I have talked with him about it—will have the full committee or perhaps my subcommittee look at the tactics that have been used, the stress and strain on others, on other services in other parts of the world.

I am sure we have talked about the ethics of conducting a war above 15,000 feet; immaculate coercion, where no allied NATO soldier has suffered any casualty as opposed to the people we are trying to help.

I know that we have talked, Mr. Chairman, about the law of unintended effects; what is happening today in regard to Russia, China, India, Pakistan, South America, and Central America. President Zedillo of Mexico wondered aloud in the international press: Will NATO now come to enforce human rights within the sovereign territory of Mexico in regards to the Chippewa Indian situation? How about East Timor, Chechnya, Turkey, and the Kurds, et cetera, et cetera? Rwanda, that situation is far more difficult.

I don't know, Mr. Chairman. I just think there are a lot of real questions that Members have. If you go back to the basic genesis as to why we are there, it comes right back to the President's speech at the Hague over 2 years ago, reflected in the Strategic Concept of NATO.

I thank the distinguished chairman.

Mr. WARNER. I say to my colleague, you are right on.

Indeed, go back before Kosovo to Bosnia. How many debates took place on this floor where the central question was: Was it in the vital U.S. interest to make our commitments there? Time and time again, the administration dropped the word ''vital,'' and then talked about how it was in our interest.

But when we put life and limb of the American person on the line, whether it is in the cockpits or on the ground or on the sea, I really believe it should be in the vital interest of the United States of America for our families to be asked to make those commitments of life and limb. That is central to this question, as you pointed out, I think very carefully.

If I might, because I think it bears worth repeating: ''The NATO charter requires the use of force in only one instance''—now this is the 1949 treaty, under article 5—''to respond to an armed attack against one or more of the member nations.'' Strike one, strike all. There is nothing in that charter that calls for the use of force to protect common interests.

This is being created out of whole cloth, this non-article 5 combat. It is as if we are writing a new article to the original treaty. It is for that reason that we should bring this before the Senate. Because through the guise of calling it a strategic concept through the panoply of the 50th anniversary, what they have done here, in my judgment, is create a new article to the fundamental treaty of 1949, and that they cannot do without the advice and consent of the Senate.

Mr. ROBERTS. Would my distinguished chairman yield for one additional question?

Mr. WARNER. Yes.

Mr. ROBERTS. I am worried about the future of NATO. If in fact our involvement in Kosovo was at one time not in our vital national interest, there is, I think, a good argument that can be made—has been made by the national security team and the President—that since NATO's credibility or the future of NATO is now on the line, it is in our vital national security interest.

Having said that, and having looked at the war in Kosovo and the tactics used, and the result, and all six of the goals, as outlined by the distinguished Secretary of State in our briefings, being turned on their head as a result of the tactics that have been used in the military strategy, and the law of unintended effects, can you imagine a situation under this Strategic Concept that all 19 nations will ever agree to ever bomb anybody again? On a proactive basis? Where we are going outside of the NATO territory, ignoring the U.N.? I doubt it.

Eight nations, right now as I speak, more especially three, want the bombing ended. Many others in this Chamber—not this Senator, for reasons that I could go into, but I will not—did not want to start the bombing campaign. Others wanted to start it. Others wanted to use the ground forces. That debate is going on right now.

We are negotiating within the NATO—within the NATO—alliance as opposed to trying to negotiate, as we are trying to do, with Mr. Milosevic, who, by the way, is a thug and an international terrorist and all the things people say about him. That does not enter into this. But can you imagine, Mr. Chairman, under what circumstance, after Kosovo, that NATO would bomb again, or for that matter ever use ground troops?

What kind of message does that send to the bad guys and the hard targets and the real people that we should be worrying about all around the world? I think we have decimated—well, there is a stronger word for it, but I will not use it—in regards to NATO. I think under this Strategic Concept we have wandered so far afield and into a dangerous pasture that we are endangering the true mission of NATO, which is collective security, not to mention all the rest of these things that are in this concept.

That is what worries me.

Mr. WARNER. Mr. President, I say to my good friend, in my judgment, predicated on a lot of study in the lifetime of this Senator of the NATO treaty, the doctrine of consensus was predicated on keeping the operations within the borders.

And now, under this proposed 1999 Strategic Concept, to take it beyond the borders, I question whether or not the doctrine of consensus will work.

What a tragedy it would be if we took this magnificent NATO organization,

which fulfilled beyond the dreams of all its mission, as laid down in 1949, which kept the peace in Europe for that half century, and allow it to be pulled apart by a doctrine such as this new Strategic Concept. I think the Senator is quite right. We are in this conflict, in all probability, not because of our national vital security interests but because of NATO. It is because of NATO that we cannot allow our military commanders to promulgate the actions which are necessary to go ahead and win it.

I often think, I say to my good friend, as over 50 percent of the airmen are flying tactical missions and over 70 percent of the support missions and the airlift, are we unfairly asking those young aviators to bear the brunt of war disproportionately because NATO did not devise and put in place, concurrently with the air operations, starting a ground operation? Because a ground operation would have transformed this conflict considerably. It might well, in my judgment, have brought about a far earlier conclusion of this conflict and saved the prolonged risk to airmen which is going on today and tomorrow and for the indefinite future, given the absence of bringing together all the force capable of the 19 nations to bear.

Indeed, the other nations that do not have the air power, as we have it, could have been the primary components of the ground action, leaving to the American airmen the operations in the sky but they undertake the operations on the ground. It would have forced Milosevic to put in place, making in all probability his ground assets a better target than they are today, widely dispersed and hidden in the villages and towns throughout Kosovo and elsewhere.

I think the whole dynamics of this conflict would have been changed had we not limited solely to air but done a ground-air combination, for which our forces have trained these 50 years in NATO, as well as the other NATO nations, for a ground-air coordinated defense.

I point out, NATO was always to be a defense treaty.

Mr. ROBERTS. If I may ask my distinguished friend, the chairman, one other question; that is, I do not think there is any question in the minds of many that to state that you are not going to use grounds forces before you decide to use force was a mistake. There is no question about that.

I am not sure I could still support or still support—I never did support—the use of ground troops, unless I know what their specific mission is: What do we expect them to do. And then, if you ''win,'' if we could ever define ''winning,'' what is it that we have won.

So from the standpoint of tactics, I say again to the chairman, I am very hopeful, once this war is over, we hope and pray that all of this talk that has been rather critical will be secondary, and, if Milosevic would agree to some of the negotiating principles that have been offered, we shall see. I see where one NATO general indicated it is going to take another 2 months. I hope that is not the case.

I hope the Senate Armed Services Committee—and I ask the chairman, would it be his intent to take a hard look. I have a subcommittee that looks at low-intensity conflicts—this became a high-intensity conflict—and military tactics and strategy. I hope we can take a look at this, especially with the asymmetrical threat that Mr. Milosevic has used so well against us. He basically took one look at our tactics and acted accordingly and played rope-a-dope. He has achieved most of his objectives. That seems to me to be a real problem here. I hope we have those hearings.

Again, I go back to the genesis of this whole business, and that is a Strategic Concept that puts us in far different pastures. I know there will be some of my colleagues who say this is not a treaty. The fact that we are having this debate today, I think, is encouraging. We had a debate on ratification of NATO expansion last year. To my knowledge, we have not had any debate, or very little discussion, of this Strategic Concept and what it means.

So the Senator's cosponsorship of this amendment is much appreciated. If, in fact it is not a treaty, it has the effect of a treaty.

Mr. WARNER. Mr. President, we are going to have that series of hearings. I do not want to have a hearing or a series of hearings on the Armed Services Committee until the men and women of the NATO forces are, hopefully, in a very limited situation with regard to personal risk.

Mr. ROBERTS. If the chairman will, I heartily agree. The war must be over.

Mr. WARNER. Let me just bring up a final concluding point to my good friend here. I know others want to speak to this. Then we will have to lay it aside.

I point out that during the 1994 debate on modifications to the ABM Treaty, the Armed Services Committee included a provision, and I was a cosponsor of that effort in the 1995 DOD authorization act—I ask my colleague to listen carefully—which required the President to submit to the Senate for advice and consent any international agreement which would ''substantially modify the ABM Treaty.''

I think that is a direct parallel and an exact precedent for what the Roberts-Warner amendment seeks.

I yield the floor.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, first I commend our good friend from Kansas for the energy he has put into a very significant issue which has to do with the new Strategic Concept of NATO.

This is not a new issue. The question of NATO's role since the fall of the Soviet Union has been an issue of a number of new Strategic Concepts. Listen to what NATO said in 1990. We have heard a lot about 1999 in Washington, but just listen to the heads of state in July 1990, speaking in London. Here is what the heads of state said: While reaffirming the basic principles on which the alliance has rested since its inception, they recognized the developments taking place in Europe would have a far-reaching impact on the way in which its aims would be met in the future and the need for a fundamental strategic review, fundamental strategic review.

And what came out of that strategic review in 1991, fundamental strategic review for NATO? They have listed many new security challenges and risks in 1991. Listen to risk No. 9, language very similar to what was adopted in Washington this year:

> Risks to allied security less likely to result from calculated aggression against a territory of the allies but, rather, from adverse consequences of instabilities that may arise from the serious economic, social and political difficulties, including ethnic rivalries and territorial disputes, which are faced by many countries in central and eastern Europe. The tensions which may result, as long as they remain limited, should not directly threaten the security and territorial integrity of the members of the alliance. They could, however, lead to crises inimical to European stability and even to armed conflicts, which could involve outside powers or spill over into NATO countries, having a direct effect on the security of the alliance.

Does it sound familiar? It sure does to me. It sounds like 1999 to me.

> Risks to allied security are less likely to result from calculated aggression against a territory of allies but, rather, from the adverse consequences of instabilities that may arise from the serious economic, social and political difficulties, including ethnic rivalries and territorial disputes. . . .

I didn't hear too many calls then for a submission of amendments to the NATO treaty. I don't think we heard any calls then, although the risks changed. They changed in a significant way: No longer likely to come from calculated aggression against the territory of the allies but from adverse consequences of instabilities.

I don't think there was a change to the NATO treaty then, and I don't think there is a change to the NATO treaty now. There were no new commitments or obligations for the United States then, in 1991, nor do I believe there are any now.

Are there different challenges? Yes. Is there a different strategic concept? Yes. Are there different risks? Yes. But is there a change to the treaty, new commitments or obligations for the United States now? I don't think so. Were there in 1991 when all the allies signed a new strategic concept? No. Even though the Soviet military capability still was constituting the most significant factor, all of a sudden because of the decline and fall of the Soviet Union, we now had new risks. Listen to these words in paragraph 12. This is the 1991 Strategic Concept, paragraph 12:

> Alliance security must also take account of the global context.

Wow. You talk about a different challenge and you talk about a new strategic concept. In 1991, the NATO allies suddenly say that alliance security must take account of the global context. Those are pretty broad words. But I didn't hear any suggestion back in 1991 that it was an amendment to the NATO treaty that required submission to the Senate—and for a good reason. There were no commitments or obligations undertaken in 1991, and there are no strategic concepts which contain new commitments or obligations in 1999. In 1999, the allies said that alliance security interests can be affected by other risks of a wider nature, including proliferation of weapons of mass destruction, disruption of the flow of vital resources, and actions of terrorism and sabotage. That is a lot different from an attack on the territory of the allies. But nobody suggested in 1991 that was an amendment to the NATO treaty, to the Washington Treaty.

Why didn't anyone suggest that in 1991? Because that did not constitute the undertaking of new commitments or obligations for the United States, even though we all agreed that alliance security must take into account the global context—and that is a lot beyond Europe. In 1991, everyone agreed to that. I don't remember one amendment, not one amendment, not one proposal that suggested that the new Strategic Concept constituted a commitment or obligation binding upon the United States which would require a change in the NATO treaty. It wasn't suggested in 1991 because there was no new commitment or undertaking binding upon us, because there was simply a new strategic concept. The 1999 Strategic Concept does not constitute a new commitment or obligation, either. The same principle applies now as applied then.

So the amendment of the Senator, which says if there are new undertakings, whether or not the new Strategic Concept imposes any new commitments or obligations on the United States, it seems to me is a requirement on the President that is perfectly appropriate. I have no difficulty whatsoever in asking the President to tell us whether or not the 1999 Strategic Concept represents new commitments or undertakings. It is perfectly appropriate—as this resolution does—to call on the President to inform us as to whether or not there are new commitments or undertakings.

As a matter of fact, the President has already informed us of exactly what this resolution says he should inform us. The President wrote Senator WARNER on April 14 that ''the Strategic Concept will not contain new commitments or obligations for the United States.'' Those are the President's words.

So what this resolution does is say: Does it? The President said, in April, that it won't. I have no doubt that the President will reaffirm that it didn't. But I must say I don't have a difficulty with what Senator ROBERTS is doing because it is perfectly appropriate to ask the President: Is there anything in this new Strategic Concept which imposes on us a new obligation for commitment? If so, submit it to us as a treaty amendment.

This is very different from some earlier language that was circulated in the Armed Services Committee. This doesn't make a finding that there are new commitments or obligations in this agreement in Washington in 1999. The language before us doesn't make any such finding. The language before us in the Senator's resolution, which I find to be appropriate, requires the President to determine and certify whether or not the Strategic Concept imposes any new commitment or obligations on the United States—whether or not.

And so as I read this resolution, I think the language is appropriate in this resolution, that the President reaffirm what he told us on April 14, tell us if there is any change in his thinking on that. Again, as he wrote Senator WARNER on April 14—and this letter has been made part of the RECORD now, I believe—the President said:

> The Strategic Concept will not contain new commitments or obligations for the United States, but rather will underscore NATO's enduring purposes, outlined in the 1949 North Atlantic Treaty.

There has been reference here to the significance of changes in strategic concepts, and I think it is important that the Senate spend some time doing what Senator ROBERTS and others have done, both on the committee and off, in focusing on this Strategic Concept. It is important that we understand what these new threats and risks are. It is important, in my judgment, that we make a determination as to whether or not we do have new legal commitments and obligations.

I don't believe the 1999 Strategic Concept creates any new binding obligations or commitments any more than I did that the 1991 Strategic Concept created any new binding commitments and obligations. But our committees of jurisdiction surely should focus on that resolution.

Senator WARNER has indicated in the last few minutes that the Armed Services Committee will, indeed, be holding a series of hearings on this subject. As he stated it, if I heard him correctly, those hearings will occur after the events in Kosovo are resolved. But as of this time, we have not yet had such hearings. I am not certain of this. But I don't believe that the Foreign Relations Committee has either, at least after the Washington agreement was signed. There may have been a hearing before the Washington agreement. But I don't believe there has been one since it was signed. The agreement has some very significant provisions in it relative to a European commitment to take on greater responsibility for European defense.

Senator WARNER made reference to the European Security and Defense Initiative, a very significant change—a very significant initiative in terms of what Europe will do. It is something that I have believed for some time that Europe should do. The reference is very specific inside of the Washington agreement.

Two, the European allies taking on—in the words of the agreement—''assuming greater responsibility in the security and defense field in order to enhance the peace and stability of the Euro-Atlantic area, and, thus, the security of all allies.''

Then it goes on to say: ''On the basis of decisions taken by the Alliance in Berlin in 1996 and subsequently, the European Security and Defense Initiative will continue to be developed within NATO.''

I think it is a very significant change. It is something which we in the United States should welcome. It means that the Europeans will be taking on greater responsibility for the defense of Europe against threats, old and new.

We ought to welcome as well the reference or the discussion of a new initiative where European countries will have greater defense capability; capabilities to address appropriately and effectively the risks that are associated with weapons of mass destruction; new capabilities so that they can deploy more readily greater mobility, greater survivability of forces, greater infrastructure and sustainability. These are initiatives inside of the new strategic doctrine which will make it possible for Europe to take greater responsibility for the defense of Europe. We should welcome this.

I don't think there has been very much emphasis in the United States on what Europe has agreed to do in the new Strategic Concept—what they have, in effect, put into black and white, the commitment to greater European resources being used for the European defense.

As I said a few moments ago, this resolution which is before us says that if there are new commitments and obligations—if—then the President should so certify to the Senate. And I believe there is none.

Indeed, the Senator from Virginia has been assured by the President in the letter which he put in the RECORD that the Strategic Concept will not contain new commitments or obligations. I believe there is none in this 1999 Strategic Concept, and I believe there was none in the 1991 Strategic Concept. There was none in 1991.

Even though the language is very similar—again, my good friend from Virginia being here—I just want to read some of the language in the 1991 Strategic Concept again. I will be very brief. But article 12 of the 1991 Strategic Concept said that ''alliance security must also take account the global concepts''—''global concepts.'' ''Alliance security interests can be affected

by other risks of a wider nature, including proliferation of weapons of mass destruction, disruption of the flow of vital resources and actions of terrorists and sabotage.''

That was in 1991. That is just one part of a Strategic Concept which we all agreed to.

Did that represent changes in the North Atlantic Treaty? No, it did not, in my judgment. Nobody suggests that it did back then. No one suggested that the President back then, President Bush, submit that kind of change in strategic concept to the Senate as a change in the treaty, for a very good reason: It did not constitute a legal obligation or commitment which represented a change in the North Atlantic Treaty. That is why nobody proposed back then that we have to ratify this.

Those are broad words in here, section 9 of the 1991 new Strategic Concept—it was called new Strategic Concept 1991:

Risks to allied security are less likely to result from calculated aggression against the territory of the allies but rather from the adverse consequences of instabilities that may arise in serious economic, social and political difficulties—

Listen to this—

including ethnic rivalries and territorial disputes which are faced by many countries in Central and Eastern Europe.

They could lead to crises in European stability.

Did that create legally binding obligations and commitments on the United States in 1991? No, it didn't. And nobody suggested that the President should submit that language, because there is no legally binding obligation or commitment from that kind of language, although in the words of the Strategic Concept in 1991 they recognized—this is what our leaders said in all of the NATO nations—''that the developments they can place in Europe would have a far-reaching impact on the way in which NATO's aims would be met in the future.''

''Far-reaching impacts,'' 1991.

I commend—and I had an opportunity to do this a few minutes ago—the efforts of the Senator from Kansas, the Senator from Virginia, and the Senator from Maine, and others to bring to our attention what this new Strategic Concept is, so that we as a Senate can understand what it is that NATO is looking at in terms of a strategic concept. It is very important that those hearings the Senator from Virginia made reference to take place. In my own opinion, if the Foreign Relations Committee has not already done so—and I don't believe they have, but I may be wrong—it is important that the Foreign Relations Committee have hearings on this Strategic Concept.

Again, I don't have any difficulty with the language in this resolution, because I think it is appropriate that the President tell us whether or not we have undertaken in this language any new obligations or commitments. The President wrote my good friend from Virginia on April 14 that the Strategic Concept will not contain new commitments or obligations for the United States. I assume that he will reaffirm that in fact there are no new commitments or obligations when he gives us the certification which is required in this resolution.

I just want to summarize by saying that I have no difficulty with this language, because I think it is appropriate we have that assurance, because if there are new commitments or obligations—it seems to me there should be—then it would be presumably an amendment to a treaty which should be submitted to the Senate. But, again, just as there was none in 1991 when that new Strategic Concept which I just read was adopted by NATO, I don't believe there are more important—my belief is that the President has written the good Senator from Virginia that in fact there are no new commitments or obligations contained in this new Strategic Concept in 1999.

Again, I want to commend the Senators who have focused on this. I think we must address the new kind of environment we face in this world, and that it is important that NATO, which is going to play such a critical role in the stability of Europe and the new kinds of threats which we and Europe face, address those threats, that we do so in the context of the most successful alliance in the history of mankind, an alliance which is now growing, an alliance which when we added three new countries in this Senate, on this floor—we adopted the Kyl amendment that, as I remember it, contained 10 provisions—very similar to what is in this 1999 Strategic Concept.

I won't take the time to read more than just one section of the 10 principles in the Kyl amendment.

The Senate understands that the policy of the United States is that the core concepts contained in the 1991 Strategic Concept of NATO, which adapted NATO's strategic strategy of the post-cold-war environment, remain valid today in that the upcoming revision of that document will reflect the following provisions, and there are many.

One is:

(IV) conflict in the North Atlantic area stemming from ethnic and religious enmity, the revival of historic disputes, or the actions of undemocratic leaders.

That is one of the principles of the Kyl amendment in which we confirmed three nations would be added to the NATO alliance.

I yield for a question.

Mr. WARNER. I want to engage in a few more minutes of colloquy. Other Senators are waiting and we have momentum under this bill. One Senator desires to lay down some additional amendments. I cannot let this opportunity go by.

Article 5 of the 1949 treaty laid out in very clear language exactly the reasons for which NATO was established. It could be understood by anyone, whether he or she wears four stars or is a private. It simply says:

The parties agree that an armed attack against one or more of them in Europe or North America shall be considered an attack against them all.

The word ''attack'' goes all the way through article 5.

We will assist the parties so attacked.

It was a defensive treaty, whether it was armed aggression across the border against a member nation. That is the only reason that NATO was founded.

Now in the Bosnia and Kosovo operation, there wasn't any attack on a member nation but it was unsettling to the security of Europe. There was no attack.

They decided it was a non-article 5 military operation. There is no non-article 5 in here. You have to go to a preamble. You have to work a strain for the basis on which we are in Bosnia and in Kosovo.

We are there; we are committed as a nation. If in the next decade we want to do something beyond article 5, then let's put it down as a new article. Let's write it as a new article, article 15, and put it down in very clear language so that everybody can understand what it is we want to do, rather than going back and getting a strange interpretation of a preamble to begin to justify putting men and women of the Armed Forces of the United States in harm's way.

The burdensharing concept: The financial relationship between the United States, which pays 25 percent of the costs of NATO—eventually our committee will get all those costs and spread them out. I think we ought to, plain and simple, start a new article if we want to do something different than article 5 and not go back within the confines of this magnificent document and try to get some strained, whatever it is, to justify military action beyond the borders.

Mr. LEVIN. Mr. President, in 1991 this is what the NATO new Strategic Concept said:

Risks to Allied security are less likely to result from calculated aggression against the territory of the Allies, but rather from the adverse consequences of instability that may arise from the serious economic, social, and political difficulties, including ethnic rivalries and territorial disputes which are faced by many countries in central and eastern Europe.

They could . . . lead to crises inimical to European stability and to armed conflicts.

That is section 9.

Then they say, in addition to article 5, article 6 which they made reference to, an armed attack of the territory of the allies from whatever direction. In 1991, this new Strategic Concept said, ''However, alliance security must also take account of the global context.'' That is 1991—''Global context.''

Mr. WARNER. I suggest my good friend is making my argument.

What I am saying is this is likened to statute law. What the Senator is reading are regulations. How often in the

history of our country have regulations just about emasculated the statute?

Mr. LEVIN. My only point in response to the Senator from Virginia, is that nobody suggested in 1991 that those words created a new binding obligation or commitment on the United States. I didn't hear it in 1991; I didn't hear it in 1992; I didn't hear it in 1993; I didn't hear it in 1994.

''Global context'' alliance security must take account.

Why didn't anybody make that argument in the 8 years since 1991? The answer is, because it didn't create any commitment or obligation, or else I assume somebody on this floor would have argued there was a new commitment or argument—the very similar language.

In 1990, NATO got together and said the Soviet Union has fallen apart, and developments taking place in Europe have a far-reaching impact. This is a fundamental strategic review.

The only point I am making is I have no difficulty with the language in the good Senator's amendment, because I think we should have the assurance that there is no binding obligation or commitment represented by these new strategic concepts that NATO adopts. I happen to think that is very important.

I repeat that the Senator has received that assurance from the President of the United States.

I yield the floor.

Mr. WARNER. Mr. President, if I may procedurally address what I believe is about to take place. The good Senator from Pennsylvania and the good Senator from Louisiana have an amendment which will soon be presented to the Senate and become the pending business. However, before, as I understand it, the Senator from Minnesota will lay down three amendments and we will immediately lay them aside; then our distinguished colleague and member of the committee will address the Senate with regard to the bill for about 10 minutes.

Mr. SPECTER. I have worked out with the Senator from Maine that I will speak first and then yield to the Senator from Maine and the Senator from Louisiana who will speak at somewhat greater length.

Mr. WARNER. I yield the floor.

AMENDMENTS NOS. 380 THROUGH 382, EN BLOC

Mr. WELLSTONE. I ask unanimous consent to send three amendments to the desk and then have them temporarily laid aside.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE] proposes amendments Nos. 380 through 382, en bloc.

Mr. WELLSTONE. I ask unanimous consent reading of the amendments be dispensed with.

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

The amendments en bloc are as follows:

AMENDMENT NO. 380

(Purpose: To expand the list of diseases presumed to be service-connected for radiation-exposed veterans)

On page 387, below line 24, add the following:

SEC. 1061. EXPANSION OF LIST OF DISEASES PRESUMED TO BE SERVICE-CONNECTED FOR RADIATION-EXPOSED VETERANS.

Section 1112(c)(2) of title 38, United States Code, is amended by adding at the end the following:

''(P) Lung cancer.

''(Q) Colon cancer.

''(R) Tumors of the brain and central nervous system.''.

AMENDMENT NO. 381

(Purpose: To require the Secretary of Defense to provide information and technical guidance to certain foreign nations regarding environmental contamination at United States military installation closed or being closed in such nations)

On page 83, between lines 7 and 8, insert the following:

SEC. 329. PROVISION OF INFORMATION AND TECHNICAL GUIDANCE TO CERTAIN FOREIGN NATIONS REGARDING ENVIRONMENTAL CONTAMINATION AT UNITED STATES MILITARY INSTALLATIONS CLOSED OR BEING CLOSED IN SUCH NATIONS.

(a) REQUIREMENT TO PROVIDE INFORMATION AND GUIDANCE.—The Secretary of Defense shall provide to each foreign nation that is a strategic partner of the United States the following:

(1) Such information meeting the standards and practices of the United States environmental industry as is necessary to assist the foreign nation in determining the nature and extent of environmental contamination at—

(A) each United States military installation located in the foreign nation that is being closed; and

(B) each site in the foreign nation of a United States military installation that has been closed.

(2) Such technical guidance and other cooperation as is necessary to permit the foreign nation to utilize the information provided under paragraph (1) for purposes of environmental baseline studies.

(b) LIMITATION.—The requirement to provide information and technical guidance under subsection (a) may not be construed to establish on the part of the United States any liability or obligation for the costs of environmental restoration or remediation at any installation or site referred to in paragraph (1) of that subsection.

(c) DEFINITION.—In this section, the term ''foreign nation that is a strategic partner of the United States'' means any nation which cooperates with the United States on military matters, whether by treaty alliance or informal arrangement.

AMENDMENT NO. 382

(Purpose: To require the Secretary of Health and Human Services to provide Congress with information to evaluate the outcome of welfare reform)

At the appropriate place, insert the following:

SEC. ____. EVALUATION OF THE OUTCOME OF WELFARE REFORM.

Section 411(b) of the Social Security Act (42 U.S.C. 611(b)) is amended—

(1) in paragraph (3), by striking ''and'' at the end;

(2) in paragraph (4), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(5) for each State program funded under this part, data regarding the rate of employment, job retention, earnings characteristics, health insurance status, and child care access and cost for former recipients of assistance under the State program during, with respect to each such recipient, the first 24 months occurring after the date that the recipient ceases to receive such assistance.''.

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

The PRESIDING OFFICER. The Senator from Pennsylvania.

AMENDMENT NO. 383

Mr. SPECTER. Mr. President, after conferring with the distinguished manager, I, too, wish to send an amendment to the desk and ask it be laid aside after it has been read.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 383.

Mr. SPECTER. 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 add the following new section:

SEC. . Directing the President, pursuant to the United States Constitution and the War Powers Resolution, to seek approval from Congress prior to the introduction of ground troops from the United States Armed Forces in connection with the present operations against the Federal Republic of Yugoslavia or funding for that operation will not be authorized.

None of the funds authorized or otherwise available to the Department of Defense may be obligated or expended for the deployment of ground troops from the United States Armed Forces in Kosovo, except for peacekeeping personnel, unless authorized by a declaration of war or a joint resolution authorizing the use of military force.

Mr. SPECTER. Mr. President, I can describe this very briefly. It provides that none of the funds authorized or otherwise available to the Department of Defense may be obligated or expended for the deployment of ground troops for the United States Armed Forces in Kosovo except for peacekeeping personnel unless authorized by declaration of war or joint resolution authorizing the use of military force. I have asked that it be laid aside to be taken up at a later time.

The purpose, in a nutshell, is to preserve the congressional authority to declare war or have the United States engage in war.

AMENDMENT NO. 384

Mr. SPECTER. Now, on behalf of Senator LANDRIEU and myself, I send a sense-of-the-Senate amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER], for Ms. LANDRIEU, for herself and Mr. SPECTER, proposes an amendment numbered 384.

Mr. SPECTER. 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 end of title 10 add the following:

The Senate finds that:

The United Nations Security Council created the International Criminal Tribunal for the former Yugoslavia (in this concurrent resolution referred to as the ''ICTY'') by resolution on May 25, 1993;

Although the ICTY has indicted 84 people since its creation, these indictments have only resulted in the trial and conviction of 8 criminals;

The ICTY has jurisdiction to investigate: grave breaches of the 1949 Geneva Conventions (Article 2), violations of the laws or customs of war (Article 3), genocide (Article 4), and crimes against humanity (Article 5);

The Chief Prosecutor of the ICTY, Justice Louise Arbour, stated on July 7, 1998, to the Contact Group for the former Yugoslavia that ''[t]he Prosecutor believes that the nature and scale of the fighting indicate that an 'armed conflict', within the meaning of international law, exists in Kosovo. As a consequence, she intends to bring charges for crimes against humanity or war crimes, if evidence of such crimes is established'';

Reports from Kosovar Albanian refugees provide detailed accounts of systematic efforts to displace the entire Muslim population of Kosovo;

In furtherance of this plan, Serbian troops, police, and paramilitary forces have engaged in detention and summary execution of men of all ages, wanton destruction of civilian housing, forcible expulsions, mass executions in at least 60 villages and towns, as well as widespread organized rape of women and young girls;

These reports of atrocities provide prima facie evidence of war crimes, crimes against humanity, as well as genocide;

Any criminal investigation is best served by the depositions and interviews of witnesses as soon after the commission of the crime as possible;

The indictment, arrest, and trial of war criminals would provide a significant deterrent to further atrocities;

The ICTY has issued 14 international warrants for war crimes suspects that have yet to be served, despite knowledge of the suspects' whereabouts;

Vigorous prosecution of war crimes after the conflict in Bosnia may have prevented the ongoing atrocities in Kosovo; and

Investigative reporters have identified specific documentary evidence implicating the Serbian leadership in the commission of war crimes.

SEC. 2. It is the sense of Congress that—

(1) the United States, in coordination with other United Nations contributors, should provide sufficient resources for an expeditious and thorough investigation of allegations of the atrocities and war crimes committed in Kosovo;

(2) the United States, through its intelligence services, should provide all possible cooperation in the gathering of evidence of sufficient specificity and credibility to secure the indictment of those responsible for the commission of war crimes, crimes against humanity, and genocide in the former Yugoslavia;

(3) where evidence warrants, indictments for war crimes, crimes against humanity, and genocide should be issued against suspects regardless of their position within the Serbian leadership;

(4) the United States and all nations have an obligation to honor arrest warrants issued by the ICTY, and the United States should use all appropriate means to apprehend war criminals already under indictment; and

(5) NATO should not accept any diplomatic resolution to the conflict in Kosovo that would bar the indictment, apprehension, or prosecution of war criminals for crimes conmitted during operations in Kosovo.

Mr. SPECTER. Mr. President, as stated very briefly before, I intend to speak for about 10 minutes. Then we have worked out an arrangement where the Senator from Maine will speak for about 10 minutes. We will be preceding Senator LANDRIEU, because she intends to talk for about 30 minutes. That is the speaking order which we have arranged among ourselves.

The PRESIDING OFFICER. Is that in the form of a unanimous consent request?

Mr. SPECTER. It is.

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

Mr. SPECTER. Mr. President, the sense-of-the-Senate resolution which has been submitted provides for the prosecution of war criminals in Kosovo, arising out of the atrocities and war crimes which have been so blatantly committed in Kosovo.

The somewhat polite term of ''ethnic cleansing'' has been used to describe these atrocities. But they are, in effect, mass murders and executions committed by the Serbian forces against the people of Kosovo. We have, to the credit of the civilized world, established a War Crimes Tribunal in the Hague. The establishment of this War Crimes Tribunal to prosecute crimes in the former Yugoslavia has already returned 84 indictments and the resulting conviction of some 8 criminals there.

The importance of establishing the rule of law is something that may be the most important legacy that will come out of the Bosnian war and the war in Kosovo, and hopefully will be embodied in a permanent international criminal court—which will remain for another day. Those resolutions have been introduced and pressed by a number of Senators, including Senator DODD and myself and others. But in Bosnia, we saw the war crimes and we have seen very strenuous activity by the War Crimes Tribunal in the 84 indictments and in the 8 convictions.

Now we have seen ethnic cleansing at a high level. We have seen acts of violence which go to the very top of the Serbian-Yugoslavian Government, right to the doorstep of President Milosevic himself. Although he is not named in this sense-of-the-Senate resolution, it is plain that the kind of atrocities which have been carried out could only be carried out by his order, at least with his knowledge and, at the very minimum, with his acquiescence—any of which is sufficient to establish criminal culpability for those war crimes.

Recently, Justice Louise Arbour visited the United States. On April 30, she met with Senator LANDRIEU, other Senators, and myself, and expressed the need for adequate financing for the investigations. The administration had requested funding of some $5 million. On the emergency supplemental which passed both Houses of Congress last week, up to an additional $13 million was added, for a total of $18 million, which was the sum requested by Justice Arbour.

At that time, she made a plea that the NATO forces or the IFOR forces undertake activity to arrest high-level indictees who are at large, referring specifically to Karadzic, whose whereabouts has been identified in the French Quarter, and who could be taken into custody.

Mladic, the other principal indictee, is said to be in Belgrade and it might require an invasion to apprehend and take him into custody. But at least as to the arrest of Karadzic, that could be accomplished.

Justice Arbour also stated there were other high-ranking officials for whom sealed indictments had been obtained. Those sealed indictments were in the hands of military authorities, and those individuals, too, could be taken into custody.

Justice Arbour expressed the judgment that if these war criminals, alleged war criminals—these individuals indicted on charges of war crimes, to be specific—were taken into custody, then she believed it could have a profound effect on the subordinates, on perhaps Milosevic himself or certainly on the subordinates immediately under Milosevic.

It is our hope this sense-of-the-Senate resolution will impel the authorities to apprehend those individuals.

I shall not go through the whereas clauses, setting forth the foundation for the U.N. action on establishing the War Crimes Tribunal or the atrocities themselves, but focusing for just a minute on the five clauses following the resolution:

First, that the United States, in coordination with the United Nations, supply sufficient funds for the investigation of the allegations of the atrocities and war crimes committed in Kosovo.

That can be accomplished with the $18 million appropriated by the United States and appropriations by other responsible nations.

Second, that the United States, through its intelligence services, should provide all cooperation in the gathering of evidence to secure the indictments of those responsible for war crimes.

Third, that where the evidence warrants indictment, those indictments will be brought for war crimes, crimes against humanity, and genocide, regardless of the position of the indictees within the Serbian leadership.

This is directed at President Milosevic himself.

Fourth, that the United Nations and all nations have an obligation to honor the warrants issued by the War Crimes Tribunal, and the United States and other responsible nations should use all appropriate means to apprehend the war criminals already under indictments.

That refers to Karadzic, Mladic, and the others under sealed indictments as previously mentioned, having been identified by Justice Arbour.

Fifth, NATO should not accept any diplomatic resolution to the conflict in Kosovo that would bar the indictment, apprehension, or prosecution of war criminals for crimes committed during operations in Kosovo.

If there is any inclination, as part of a plea bargain on any of the negotiations, to spare President Milosevic or other high-ranking officials, that should be rejected as part of the diplomatic resolution of the conflict in Kosovo if such a diplomatic resolution should be obtained.

Last Thursday, Secretary of State Madeleine Albright testified before the Foreign Operations Subcommittee of Appropriations, a committee of which I am a member. She was questioned at that time and stated that the United States was not negotiating with Milosevic.

Well, in effect, an indirect negotiation is not a whole lot different. But it may be—and I made this statement at the time of the hearing—that the line could be drawn so that the United States would maintain its position that it would not be a party to any settlement which, by way of a plea bargain, gave immunity or absolved Milosevic or any other high-ranking diplomatic official or anyone from responsibility for the war crimes warranted by indictments and warranted by the evidence.

I commend Senator LANDRIEU for her leadership on this important resolution, and I yield the floor.

Mrs. FEINSTEIN. Mr. President, I rise to cosponsor the amendment offered by my colleagues from Pennsylvania and Louisiana expressing the sense of Congress regarding the need for vigorous prosecution of war crimes, genocide, and crimes against humanity in the former Republic of Yugoslavia.

This amendment expresses the Sense of Congress that:

The United States should provide sufficient resources for an expeditious investigation of the allegations of war crimes committed in Kosovo;

The United States should provide all possible cooperation to the Tribunal in the gathering of evidence;

Where evidence warrants, indictments should be issued for war crimes and that the United States and all nations have an obligation to honor arrest warrants; and,

NATO should not accept a settlement in Kosovo that would bar the indictment, apprehension, or prosecution of war criminals.

During the past two months, Kosovo has witnessed carnage and bloodshed unseen in Europe for almost fifty years. These events are the culmination of a decade-long campaign of terror and bloodshed in the Balkans engineered by Mr. Milosevic.

Over 1.2 million Kosovar Albanians are now displaced, having been forced to flee their homes. Over 700,000 Kosovars are now refugees, most in Albania, Macedonia, and Montenegro. Others have been forced to hide in the forests and mountains.

The United States now has hard evidence that war crimes have been committed. A report issued by the State Department earlier this month entitled ''Erasing History: Ethnic Cleansing in Kosovo'' argued that: ''At this writing, the forces of Yugoslav President Slobodan Milosevic continue to burn, loot, rape, shell, and de-populate Kosovo, and thousands of refugees continue to flee into neighboring Albania and Macedonia. The refugees coming out of Kosovo are only now beginning to tell their stories. Yet even these fragmented accounts portray a systematic policy of ethnic cleansing.''

This report alleges that:

Serbian forces have made Pristina, the capital of Kosovo, a ghost town. Serbian military, police, and paramilitary forces expelled between 100,000 to 120,000 persons from Pristina in only four days. Kosovars in Macedonia indicate that only 100 ethnic Albanians remain in Pristina. Serbian forces are stealing and ''confiscating'' furniture from abandoned homes.

In Pec, Serbian forces herded young Albanian women to the Hotel Karagac [Kara-jack], and raped them repeatedly. The commander of the local base used a roster of soldiers' names to allow his troops to visit the hotel on a rotating basis.

Violence in western Kosovo is stronger than in any other region of the province. Pec was emptied of ethnic Albanians in 24 hours. In Djakovica's [Jacko-vika] old city, Serbian forces burned 200 to 600 homes the day after NATO airstrikes began. By the next day, the rest of the old city had been torched.

The U.N. High Commissioner for Refugees stated that the Djakovica region, and I quote, ''undoubtedly has been one of the most violent and cruel in the whole of Kosovo, turning it at times into a virtual killing field.''

In fact, the bulk of these crimes are being committed by the Serb paramilitary units, such as the ''White Eagles'' and ''Tigers'' under the direct control of the Ministry of the Interior, and, in turn, accountable to Mr. Milosevic.

Indeed, the campaign waged by Mr. Milosevic in Kosovo is a virtual catalog of systematic crimes which I believe merit investigation by the International War Crimes Tribunal. The crimes, to summarize, are:

Forced expulsions: Over one million people have been forced from their homes;

Looting and Burning: Some 500 residential areas have been burned since late March, including over 300 villages burned since April 4;

Detentions: Consistent refugee reports that Serbian forces are separating military-aged men from their families in a systematic pattern. Some analysts estimate that the total number of missing men is as high as 100,000. Their fate is unknown;

Summary Execution: Refugees have provided accounts of summary executions in at least 70 towns and villages throughout Kosovo;

Rape: Ethnic Albanian women are reportedly being raped in increasing numbers. Refugee accounts indicate systematic and organized mass rapes in Djakovica and Pec;

Identity Cleansing: Refugees report that Serbian authorities have confiscated passports and other identity papers, systematically destroyed voter registers and other aspects of Kosovo's civil registry, and even removed license plates from departing vehicles as part of a policy to prevent returns to Kosovo.

The civilized world must send a strong and unambiguous message that ethnic cleansing, genocide, and mass rape are not acceptable, and will not be tolerated.

I will never forget, about 4 years ago, I picked up a copy of the New York Times and opened it. There was a rather large picture of a young girl about 15 years old. She had sort of a Dutch cut, bangs hanging over her forehead. She had on a school uniform. But there was something very wrong with the picture: She was hanging from a tree. Dead in Srebrenica.

And then it came out that there was a major massacre of thousands of people in that supposedly protected enclave by the Serbian military. And to this day, 5,000 to 7,000 Muslim men and boys are simply missing. A few have been found in mass graves, but the most still remain missing.

This crime, too, was committed by those who followed Mr. Milosevic's orders.

I would say that when any nation on earth permits their military police to wear hoods and cover their face while they are carrying out their official duties, then you know that what they are doing is not legal.

And there can be little doubt that those who conduct these activities in Kosovo—be they in the Yugoslav military or in paramilitary outfits such as the ''White Eagles'' or the ''Tigers'' —that they are acting on orders which come from Mr. Milosevic.

And now there are reports that Yugoslav authorities have begun to dig up the mass graves in Kosovo in an effort to destroy evidence that could be used against them in war crimes trials.

Try as they might to hide their crimes, the world now knows what has happened in Kosovo. The regime of Mr. Milosevic has been waging war on the people of the Balkans for close to ten years now. The international community must stand up to this, or we will

set the stage for further bloodshed and tragedy in Asia, in Africa, and elsewhere in Europe. Mr. Milosevic must be held accountable for the orders which he has given, and the crimes which he has ordered committed.

I urge my colleagues to join me and the distinguished Senators from Pennsylvania and Louisiana and support this amendment. It sends a clear message to Mr. Milosevic and others who commit crimes against humanity: You will be held accountable, and you will be brought to justice.

The PRESIDING OFFICER. Under the previous order, the Senator from Maine is recognized for 10 minutes.

Ms. SNOWE. Mr. President, I rise in strong support of the Fiscal Year 2000 National Defense Authorization Act. This critical legislation brings the military to the threshold of a new century posing new challenges to the U.S. national security. Under the superb leadership of our distinguished chairman, the senior Senator from Virginia, the Armed Services Committee has reported a bill that shapes a more flexible, mobile, and precision Total Force required for the future.

This bill takes a proven and fundamental approach to enhancing our national defense by devoting more resources to readiness and modernization accounts and improving the quality of life for military families. The total authorized funding of $288 billion in the legislation increases the administration's request by $8 billion and represents a 2.2-percent increase in real terms over the fiscal year 1999 level.

These responsible funding levels try to rescue a defense budget that, as a percentage of the Nation's GDP, has reached its lowest points in 50 years. In modernization programs—those for weapons procurement—funding has fallen by 67 percent since 1985.

At the height of the Reagan buildup, the Pentagon obligated $138 billion for procurement. Since then, the spending fell to a low point of $44 billion in 1997. The fiscal year 2000 budget increases the account to $56 billion, and I commend Secretary Cohen for planning the first budget of this administration that brings procurement back to a threshold of $60 billion, as recommended by the Joint Chiefs of Staff, starting in the year 2001.

The major weapons and systems authorized by this bill, particularly service combatants, strategic and tactical aircraft, and high-speed armored vehicles, will give the armed services more endurance and firepower at lower life cycle costs. Smooth construction materials will deceive the enemy radars that can detect the hard angles of older platforms. Information technologies will give ships, tanks, and aircraft battlespace data that shows potential enemy movements before they occur. A new series of rapid transporters will bring forces to the shorelines of instability. And from safe distances in the air or at sea, smaller crews will program missiles for strategic inland targets.

As chair of the Seapower Subcommittee, I had the honor of witnessing firsthand the revolution in capabilities by traveling to the Persian Gulf to visit the sailors of the carrier Enterprise and the guided-missile cruiser U.S.S. *Gettysburg* and the minesweeper U.S.S. *Ardent* during the Easter recess. Without exception, the men and women of these ships, forward deployed between Iran and Iraq, demonstrated a solid commitment to defending the interests of their nation in some of the most dangerous waters on the planet.

I listened and talked with dozens of sailors and returned to Washington with a fresh understanding of the human dimension of readiness. Only dedicated people can deliver the capabilities needed to project our military power. Far removed from their families and the luxuries of life ashore, the crews of the *Enterprise*, the *Ardent*, and the *Gettysburg* admirably performed their missions of containing the Iraqi military and ensuring the freedom of commerce.

The diligence of the crews of these ships makes a visitor forget their youth. From galleys and control rooms to flight decks and bridges, sailors cooperated with professionalism to ensure that our maritime power upheld peace and stability.

They reminded me that patriotism hinges on sacrifice, and that Congress can perform no greater service in defense policy than to improve the quality of life for military families.

Therefore, I think the legislation before us reinforces the wisdom of additional personnel provisions in both this authorization bill, as well as the legislation that was passed by the Senate that would increase the retirement and the pay for the members of our Armed Forces. The Bill of Rights Act, the pending legislation, as well as the fiscal year 1999 supplemental, will move closer to this goal by authorizing a universal active-duty pay increase of 4.8 percent, the largest since 1982, and giving troops enrolled in the retirement plan the option of drawing pension benefits calculated under the same formula as other personnel who served for at least 20 years.

I believe this certainly reinforces the conversations that I have had with a group of senior noncommissioned officers aboard the Enterprise who stressed the need for equity in the Pentagon's compensation and retirement systems. I repeatedly heard that uniformed personnel could not obtain timely care for their families and waited months on end for reimbursement.

As a result, I sponsored a provision in this bill permitting TriCare beneficiaries to receive treatments at qualified medical offices if they live more than 50 miles from a DOD health installation. This initiative, coupled with the Bill of Rights Act, directs to the Defense Department to rely on more efficient claims processing procedures to tackle the issue of access to quality treatment that several sailors raised in their encounters with me.

I also include a provision in this legislation—of course, it was authored with Senator KENNEDY—that would create a Defense Department task force on domestic violence. This is another issue that has become a serious concern within our Armed Forces.

This task force will consist of military representatives, family advocacy program experts, and civilian domestic violence professionals to develop guidelines for a coordinated response to this tragic problem that has grown from 14 reported cases per 1,000 families in 1990 to 22 per 1,000 families by 1998.

The second major provision of the Kennedy-Snowe amendment mandates creation of a central departmentwide database to receive information on reported domestic violence cases in the Armed Forces.

No military family should endure the trauma, fear, and alienation that flows from acts of domestic violence. I am hopeful that the Kennedy-Snowe amendment will represent a crucial beginning in the process of setting standards and imposing penalties to deter spousal and child abuse in the armed services.

I want to highlight a few provisions under this legislation which were within the jurisdiction of my Seapower Subcommittee. I thank Senator KENNEDY, the ranking Democrat of the subcommittee, along with the panel's other members, for their diligent work on this year's legislation.

The Seapower Subcommittee held five hearings in our review of the fiscal year 2000 budget request. Our hearings focused on the overarching question of how the Pentagon can sharpen its ability to reinforce U.S. political and economic objectives overseas with an agile maritime fleet.

Towards this end, we explored programs designed to maintain the sea lanes vital to international trade. The subcommittee also summoned Navy and Marine Corps witnesses to discuss strategic air and sealift in support of regional commanders in chief, littoral force projection and protection, evolving submarine requirements, and priorities in the realms of research and acquisition.

Witnesses before the Seapower Subcommittee testified that the proliferation of weapons and advanced technology caused by the willingness of countries to sell expertise, hardware, and technology present a challenge for the United States to predict potential adversary threats. This trend of proliferation shortens the timeline for an enemy to field an offensive weapon that can disable our forces in any region of concern.

For these reasons, research and development in systems designed to counter enemy air, land, and sea-launched missiles, in addition to antiship torpedoes and mines, will enhance the Navy's capacity to deter conflict throughout the littoral areas of the

globe. These coastal zones, within 200 miles of any sea, contain three-quarters of the world's population, 80 percent of the capital cities, and the major corridors of commerce.

Subcommittee witnesses expressed concern that traditional threats, as well as nontraditional threats, from hostile countries and international terrorists would attempt to disrupt seagoing trade and military operations. They pointed out that over 50 countries possessed over 150 types of naval mines; over 60 countries have inventories of more than 60 types of torpedoes; over 75 countries have more than 90 types of antiship cruise missiles; and by 2016, 40 to 50 countries will deploy at least one theater ballistic missile.

Navy and Marine Corps witnesses testified that their services will function as the force of choice in the 21st century. They based this assessment on compelling demographic facts. Water covers 70 percent of the world's surface, and by the year 2010, over 70 percent of the world's population will live in urban areas within 300 miles of a coastline.

An ever-increasing world population—to top 7.5 billion by the year 2015—will only intensify this surge of urbanization and leave new environmental, housing, and health care problems in its wake.

Competition among ethnic and religious populations will furthermore make the urbanized littorals ripe for conflict in the 21st century. The Navy and Marine Corps can, therefore, use the sea area as an operating base and a maneuver space without permission from a foreign country. In this context, maritime forces can serve as a first echelon of U.S. military power projection.

Force modernization must subsequently remain on schedule since America needs high-technology fleet able to steam at a moment's notice to any point on the planet. Our witnesses, however, cited a number of budgetary and operating tempo developments that compete with core modernization requirements.

From 1988 to 1998, the Navy's total obligational authority, in constant 1998 dollars, decreased by 40 percent. Coincident with this decrease, the Navy and Marine Corps have experienced a dramatic increase in forward presence and contingency operations.

In the past 50 years, naval expeditionary forces have responded to over 250 crises worldwide. Since 1992 alone, as this ''Commander-in-Chief Requirements'' chart illustrates, naval forces have responded to 77 different contingency operations or threats around the world—that is between 1992 and 1998—while between the years of 1988 and 1991, they only responded to 27 different threats worldwide. So it shows the disparity in the threats between this decade and the previous decade, to show the tremendous pressures that are being placed on our naval and our marine forces.

During the cold war, Marines were called upon to respond to a threat on average of once every 15 weeks. Since 1990, the Marines have been responding to a threat once every 5 weeks. That is a threefold increase. So as a result of the naval force structures, as one witness said during the Seapower Subcommittee's first hearing, there is ''no shock absorbency left'' when it comes to our force structures and the demands they are placing on our naval and marine forces.

Again, as this chart will illustrate in terms of where we are today on the 300-ship Navy, we are going to have to build, on an annual rate, 8 to 10 ships a year in order to sustain a 300-ship Navy. We are going to decline pretty rapidly. As we are in 1999, we have 315 ships; for the year 2000, 314; by the year 2005, we will be down to 305 ships. In order to sustain 300 ships, we will have to increase the number of ships we are building to 8 to 10 a year from the 6 we are building currently.

Based on the testimony, and also my visits to the deployed fleet units, and discussions with the Navy, the Marine Corps, the Army and Air Force officials, the subcommittee reached the following conclusions:

First, the Navy and Marine Corps capabilities must remain ahead of the threats designed to disrupt or deny maritime operations on the high seas and in the littorals. To respond to this conclusion, the Seapower portion of this bill adds $213 million to the budget request for research, development, testing, and evaluation.

Second, the Navy and Marine Corps future readiness will decline if recapitalization and modernization are deferred. I think again these charts illustrate the problem. So to respond to this challenge, the Seapower portion of this bill adds $1.068 billion to the budget request for procurement.

Third, strategic sea and airlift are required to support daily operations overseas, emergent requirements, and sustained military campaigns of a major theater war. The force deployment goals of the 1995 Mobility Requirements Study Bottom-Up Review Update established the strategic lift requirements as those required for one major theater war and, later, to swing that lift to support the second nearly simultaneous MTW.

So to respond to this challenge, the bill adds $40 million to the budget request for national defense features in ships.

In addition, the full committee approved the budget request for $3 billion for procurement of 15 C–17 aircraft, $70 million for modifications to the C–5 aircraft, $170 million for the C–17 research and development, and $63 million for the C–5 research and development.

Fourth, the Navy must build no fewer than 8 ships per year to maintain a force structure of approximately 300 vessels, as I mentioned earlier. Ship designs and technologies must respond to these challenges of both the littorals and the open ocean warfare.

Quantity has a quality of its own, especially when naval operations occur at the same time in different geographic regions. The Seapower portion of the bill therefore adds $375 million advanced procurement for the LHD–8 and extends the DDG–51 multiyear procurement authority to include the fiscal years 2002 and 2003 ships.

The committee, however, remains concerned with the overall shipbuilding rate included in the administration's budget requests. The topic of ship force structure was discussed more than any other issue in the Seapower hearings.

Witnesses stated repeatedly that the current force structure of 324 ships already strains worldwide operations. This problem will only grow, since the projected size of the fleet, as I said, will decrease to 305 platforms in the next 5 years.

Unfortunately, the Department of Defense has provided few specifics on the planned size of the Navy force structure beyond the calendar year 2015 and how it intends to address the impending ship shortfall problem beyond lowering acquisition costs and reducing the size of ships' crews.

The time has come for the administration to demonstrate an understanding of the ship acquisition problem and to share with Congress a systematic plan to address this serious national security concern.

The report accompanying this bill requires the Secretary of Defense to submit, with the fiscal year 2001 budget request, a report that details the Department's long-range shipbuilding plan through fiscal year 2030 and describes the annual funding required to procure 8 to 10 ships a year between fiscal years 2001 and 2020.

Finally, attack submarines have reached the limits of sustainable operations. The submarines of the 21st century will generate key strategic and tactical intelligence, deploy surveillance and reconnaissance teams, and enhance the firepower of carrier battle groups. In recognition of these facts, the bill approves the request of $116 million for submarine advanced technology and adds $22 million for the Advanced Deployable System.

Finally, the key to reducing the operating costs of ships lies in research and development to design future ships that can operate effectively with smaller crews. Our bill approves well-funded research and development programs for developing new ship designs to reduce overall life-cycle costs.

All of these naval programs, as well as the major systems of the other three Services, will require an adequate domestic basing structure for maintenance and deployment. This factor, along with the changing mix of threats to our national security, triggered the two bipartisan Armed Services Committee votes this year against amendments authorizing additional base realignment and closure rounds.

The committee first rejected the BRAC amendments because no base closure round yet has yielded the taxpayers any clear or proven savings. To appreciate this point, one only need to consider the conclusion of the leading advocate of BRAC, the Department of Defense. DOD's April 1998 base closure report to Congress stated explicitly that ''no audit trail, single document, or budget account exists for tracking the end use of each dollar saved through BRAC.''

Furthermore, the conflict in Kosovo illustrates how hostilities can strain our ability to project military power in unstable areas of the world. Since this war began in March, the United States has diverted its only aircraft carrier in the Western Pacific, near North Korea, to Serbia's Adriatic Sea basin. We have more than 400 aircraft from airfields across the country now engaged over Kosovo.

In the meantime, the Department of Defense has almost depleted the Nation's air-launch precision missile stocks, strained our aerial tanker fleet, and called up 33,000 reservists. Congress and the administration should therefore consider how to improve, rather than phase out, the shore- and land-based systems that sustain our deployed forces.

We cannot forget that America's overseas basing infrastructure has declined by more than 40 percent since the end of the cold war. The four previous BRAC rounds have eliminated about 25 percent of domestic military installations.

The key challenge of the 21st century force will focus on long-range deployments from American territory to protect interests and allies on short notice. We need a master base plan, still undeveloped, that identifies categories of ports, staging grounds, airfields, depots, and maintenance facilities to meet these strategic requirements. The administration cannot ask Congress to approve more closure commissions in a vacuum about what physical support assets at home the troops of tomorrow will need to complete their missions abroad.

This authorization bill advances the goals of shaping the modernized Armed Forces on which Americans will rely to safeguard their interests in a changing and volatile world.

I again thank the committee chairman, Senator WARNER, for his leadership, and the ranking member, Senator LEVIN, for his leadership as well in crafting this significant bipartisan legislation. I urge all Senators to support it.

PRIVILEGE OF THE FLOOR

Mr. President, I ask unanimous consent that Laurell Brault, my military fellow, be given floor privileges during the Senate consideration of S. 1059.

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

The PRESIDING OFFICER (Mrs. HUTCHISON). The Senator from Virginia.

Mr. WARNER. Madam President, first I thank our distinguished colleague from Maine. She comes from a great State which has a maritime tradition that really predates the United States of America. Am I not correct in that?

Ms. SNOWE. That is correct.

Mr. WARNER. How fortunate we are in the Senate to have one with that traditional background as now head of the Seapower Subcommittee of the Armed Services Committee of the Senate. You share that with another distinguished colleague in the next-door State of Massachusetts, Senator KENNEDY, who is the ranking member. We are well represented on this committee.

I commend you for your report and bring to the attention of the Senate and the American people the underlying theme of our pay bill, how many times our men and women of the Armed Forces are required now in missions beyond our shores. That is very important. Of course, as to the 300-ship Navy—a famous figure—I hope that you and I and others can hold the line, because we are a maritime Nation. Our entire economic strategy is dependent on the security of our overseas markets and the ability to get our products out. Our entire defense strategy is dependent on what we call forward deployment. The ships of the Navy are a lifeline protection for both our economic as well as our national security responsibilities in this country. I commend the Senator.

Ms. SNOWE. I thank the chairman for his comments. I certainly feel privileged to chair the Seapower Subcommittee and to focus on some of the critical challenges facing our naval forces in the future. Having had the opportunity to visit our personnel on the U.S.S. *Enterprise*, the U.S.S. *Gettysburg*, and the U.S.S. *Ardent*, I had a firsthand appreciation of the pressures placed on the men and women in our Armed Forces and the more we need to support them in every way possible. That is why I think the pay and retirement provisions are all necessary, given the demands that are being placed on our naval forces overseas. The deployments are longer and they are more rigorous. It is becoming far more difficult for them when they return to home port because they have to begin retraining. So there is very little time for them to prepare for the future and also the demands that these challenges present in keeping them from their families. We have to recognize that. I think the administration has to recognize that in terms of the number of contingency operations, that, ultimately, is really putting a tremendous strain on all of our armed services.

Mr. WARNER. Madam President, I thank our distinguished colleague. I dare say that she will establish a record far superior to that of her predecessor; namely, the Senator from Virginia, as chairman of the Seapower Subcommittee.

I ask unanimous consent that the distinguished Senator from Maine be added as a cosponsor to the Roberts-Warner amendment now pending at the desk.

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

Mr. WARNER. Madam President, I understand the order is our distinguished colleague, also a new member of our committee and one who has certainly pulled her weight by a margin of two in her service on the committee.

AMENDMENT NO. 384

The PRESIDING OFFICER. Under a previous unanimous consent order, the Senator from Louisiana is recognized for 30 minutes.

Ms. LANDRIEU. I thank the Chair.

Madam President, I thank our chairman for the fine work that he has done in bringing this very important bill to the floor and to acknowledge the work of my colleague from Maine. As a Senator who represents another State with a great maritime tradition, I most certainly appreciate the hard work and the intensity to which she brings to bear in making sure we maintain adequate naval power to support all of our missions around the world. Her leadership has been tremendous. I look forward to working with her, along with our chairman, in the years to come.

Mr. WARNER. Madam President, could I interrupt the Senator. I ask unanimous consent that at 5:30 today—I beg the forgiveness of the Chair and our distinguished colleague.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. On an equally important note, I rise to support the sense-of-the-Senate resolution, now in amendment form, offered by the distinguished Senator from Pennsylvania and myself. We feel very strongly about presenting it to the whole chamber, and we hope to get a very strong bipartisan vote, in just a few minutes, on this resolution.

Madam President, at the close of World War II, Europe was devastated. The allied armies, in liberating Eastern Europe, had uncovered a horror beyond imagination—6 million Jews, men, women, and innocent children, had been massacred, and millions of other civilians and soldiers had been killed on all sides by fruitless wars of aggression.

Once Germany itself had been occupied, the documentary evidence of these atrocities came to light. Along with victory came the eventual capture of the Nazi leadership, and slowly but surely, the German war leaders who did not kill themselves outright, fell into allied hands. At that time there were two competing ideas on how to deal with these prisoners. The English and the Russians simply wanted to take the leaders of Nazi regime outside and shoot them. After all, it was the way victors had treated the vanquished in Europe for hundreds of years, particularly when the vanquished had been so merciless themselves.

However, the American Secretary of War, Henry Stimson, proposed a very different, and actually, radical solution. He wanted to use the atrocities perpetrated by Nazi Germany to make real the notion of international law. In retrospect, it seems very strange, indeed, that a Secretary of War would be the primary advocate for holding a legal proceeding. But Secretary Stimson was wise. He understood something very fundamental: America had not joined World War II to prop up the same, tired cycle of war and revenge that had made Europe the bloodiest continent on Earth during the 20th century. We entered the war to create a fair and lasting peace. We had no territorial demands. We asked for no war reparations, and we did not come to loot and rob Germany of its treasures. All we wanted in exchange for the great sacrifice that we made as a people was the assurance that after the war, peace, democracy and freedom would prevail.

The Nuremberg trials were one of the central steps in fulfilling this objective. Instead of revenge, the trials stood for justice. Instead of collective blame, these trials stood for individual accountability. Instead of Europe's bloody past, the Nuremberg trials held the promise that we could break the cycle of violence.

Over 50 years since the conclusion of those trials, the Nuremberg principles are being called into question. I believe we reached the right conclusions at those trials. We hit upon some universal truths about what needs to be done to bring true peace to a region wracked by war. We determined it was necessary to establish justice, to hold individuals accountable for their acts, and to try to stop future wars of revenge. Those principles ring true even today.

Ironically, as this map shows and as we are well aware, another conflict in Europe now puts the lessons of the Nuremberg Trials to the test. We began strongly enough. In May of 1993, the United Nations Security Council created the first international war crimes court since the Second World War, since the Nuremberg trials. The International Criminal Tribunal for former Yugoslavia was formed to investigate and try war crime cases resulting from the war in Bosnia. It was hailed then as the first step towards reconciliation of the warring factions.

If the international community could bring justice to Bosnia, if they could expose the wanton destruction of human life by the Bosnian Serbs, there might be a real chance for the same collective soul searching that occurred in Germany at the end of World War II. That reflection and acknowledgment of wrongdoing has generated a peace between the great powers of Western Europe that was simply unthinkable at the beginning of this century. If it can happen between the Germans and the French, why not between the Croats and the Serbs?

For a number of reasons, mostly political, the international community has simply not grasped the opportunity that this international tribunal has offered to us.

In the 6 years since its formation, the Tribunal has indicted 84 people. However, of those 84 indicted, it has completed only 6 trials. Twenty-five others are now in custody, either awaiting trial, or involved in proceedings. But six convictions in 6 years is a very mediocre showing for a conflict that was marked by intense brutality on all sides. Furthermore, the most significant war criminals remain at large. We are aware of where they are, but they continue operating unmolested. The reality is that while the vast majority of war crime indictments were against Bosnian Serbs, the Croatian and Muslim indictees are far more frequently held in custody because their governments have been cooperating with the Tribunal.

Unfortunately, the moment for effective action has passed and the results are clear. When we do not uphold the principles established at Nuremberg, it gives license to thugs and dictators to pursue their aims by brutality and illegal means. We can only wonder if there would have been different headlines today had we been more insistent that the perpetrators of war crimes in Bosnia stand before the bar of justice.

I am joined by my colleague, the senior Senator from Pennsylvania, in introducing this amendment that seeks to prevent a repeat of our mistakes. Let us make the Tribunal truly effective. That is what this amendment offers. The chief prosecutor, Justice Arbor, has made clear that the Tribunal's jurisdiction does extend to Kosovo. We need to ensure that when this war is over—and one day, hopefully soon, it will be—the parties responsible for these crimes will be made to answer personally. Our amendment addresses a number of the obstacles currently facing the tribunal.

First, the amendment asks that the United States, in coordination with other United Nations contributors, provide the resources necessary for a rigorous investigation of the war crimes committed in Kosovo. I am happy to report, as was mentioned by my friend from Pennsylvania, that an additional $18 million has already been passed by this Senate in the supplemental appropriations bill for this specific purpose. At present, the Tribunal has a mere 70 investigators at its disposal. This number covers not only the 600,000 refugees from Kosovo, but all of the ongoing investigations of Bosnian war crimes. Clearly, the Tribunal is undermanned to undertake a project of the enormity presented by Kosovo.

Secondly, the resolution calls on our Government, through our intelligence services, to provide all possible cooperation in the gathering of evidence necessary to prosecute war crimes. While testimonial evidence is sufficient to bring charges against those responsible for the mass execution, the rapes, gang rapes and arson, but such evidence rarely addresses the crimes of a country's leadership. Such is the case in Kosovo. Milosevic is not out in the field shooting civilians himself, but the situation certainly looks as if he is issuing the orders—proving that connection requires intelligence sources that only we and our NATO allies can provide. And we should do it forthwith.

Additionally, we cannot be afraid of where the war crimes evidence leads. This resolution will make it clear that no one—no one—will be exempt. We shall not compromise long-term peace prospects for short-term political expediency. Wherever the evidence leads, indictments will follow.

Equally important, this resolution reflects the fact that all nations have an obligation to honor arrest warrants issued by the International Criminal Tribunal. Many of those already indicted are living normal lives while their whereabouts are well known. Such selective prosecution and inaction breeds cynicism and creates an atmosphere that supports the sort of thugs now operating in Serbia. It undermines our effort and it should not be tolerated. This must stop.

The resolution we introduce today calls on the United States to use all appropriate means to apprehend war criminals already under indictment.

Lastly, and most critically, this resolution insists that NATO should not accept any diplomatic resolution to the war in Kosovo that would bar the indictment, apprehension, or prosecution of war criminals. The proper resolution of this conflict may be our last opportunity to bring a lasting peace to this region. It cannot be done if those responsible for the war are not punished for their actions.

It is often easier to exclude tyrants from justice to secure a temporary lull in the fighting than to support a thorough and complete peace. If we go for easy answers, we will doom the people of that region to repeat these same horrors again and again. As historians have often noted, one war frequently sows seeds for the next. This is particularly true of the kind of incessant ethnic warfare going on in the Balkans. The only way to change this reality is to insist that individuals be held accountable for their barbaric actions and be brought to justice.

People must understand that there are international standards of behavior and they will be held accountable. It makes a huge difference in the way they interact with their neighbors. In short, we must demonstrate that might does not make right and that no one can benefit from the misery of their neighbors.

Our State Department recently issued a report entitled ''Erasing History: Ethnic Cleansing in Kosovo.'' This is one of a hundred pictures that have been taken, showing the horrors of mass executions and murder of innocent men, women and children. That

report details much of what is already known—700,000 refugees forced to flee their homes; 500 villages looted and burned; at least 70 instances of summary executions; the systematic rape of women and young girls, and the list goes on.

What is odd about ethnic cleansing is that while it tries to erase history, it actually has the opposite effect. It brands indelibly into people's minds the memories of the fire, torture, the shooting, the rape, the running, the horrors of the night and the morning. The entire history of the Balkans reads like one giant tragedy where the past motivates evil in the present. Instead of erasing history, Yugoslavia must move beyond it, and NATO needs to continue to press them in that direction to achieve those ends. Justice, provided impartially and equally, is the most effective means for doing that, and we can do that through a strong, well-financed, determined War Crimes Tribunal.

There may be no clean hands in the Balkans, but there can be new beginnings. I believe this resolution will anchor the United States policy to creating one.

I would like to put up another chart of something that shows a video capture from a tape recently smuggled out of Yugoslavia.

Mr. WARNER. Madam President, will the Senator allow me to interrupt to make a unanimous-consent request?

Ms. LANDRIEU. Yes.

Mr. WARNER. Madam President, I ask unanimous consent that at 5:30 today, which is just minutes away, the Senate proceed to vote on or in relation to the Specter-Landrieu amendment No. 384 with no amendments in order to the amendment.

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

Mr. WARNER. Madam President, I now 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. WARNER. Madam President, if I might draw the Senate's attention to the last paragraph, which is section 5, can the Senator read that?

It says: ''NATO should not accept any diplomatic resolution to the conflict in Kosovo that would bar''—and then, my first question is, Is it conceivable that the United Nations should likewise not accept any? I mean in the final analysis, it is difficult to predict now. Certainly NATO will have a voice in the matter. But it could be that this thing would be involved before the United Nations. Is the spirit of this to include the United Nations, so to speak?

Ms. LANDRIEU. Yes. I would say so. The spirit of this resolution is clear that no diplomatic end to this war should allow any immunity for those who are guilty of war crimes.

I would have no objection. I would want to talk with Senator SPECTER about adding reference to the United Nations. Clearly though, it is a NATO conflict.

Mr. WARNER. Let me proceed to another item.

The Senator used the key phrase, she doesn't want any amnesty or anything to prohibit the prosecution, and I think the Senator said ''of those who are guilty.'' But who has to establish guilt in terms of who is and who is not guilty? It seems to me if this were to read that it would ''bar the indictment, apprehension, or prosecution of persons alleged to have committed,'' because the Senator said ''war criminals,'' that could be interpreted as saying somebody is already designated one, two, three, and four as a war criminal and, therefore, you cannot give them amnesty, but there are some, I would presume, in this conflict who have not been designated ''war criminals'' but there are allegations to that effect, and they would have to proceed through the indictment process. But as this is written, the date of the agreement might cut off a class of individuals who are guilty but have not been as yet designated ''war criminals.''

Do I make myself clear?

Ms. LANDRIEU. I understand, I believe, what the Senator from Virginia is asking me. But I think the language of this amendment covers his concerns. We have not been allowed into Kosovo 1 day, but when we are, it will reveal atrocities and evidence of those responsible. It will happen in the same way as when we entered into Central Europe to find the concentration camps. This resolution simply states that no resolution of this conflict should give immunity in advance to anyone who could be charged and then later convicted of war crimes.

I think the language is clear on that intent.

Mr. WARNER. Let's hope this colloquy has cleared up any other questions. Before we started the debate, I talked with the Senator, and I thought she was very candid in her private comments to me.

Supposing that this frightful conflict drags on and the only basis on which anyone can reach any resolution is the question of amnesty, do I understand the Senator's position to be that under no circumstances should the sole remaining provision to stop this conflict be waived by those negotiating and those who eventually have to accept the resolution? Is that your position?

Ms. LANDRIEU. Absolutely. It is quite a serious point of this resolution, and I recognize that it may take a tool off the table, but it is purposefully done that way. I happen to believe it would be a great mistake for this Nation and our NATO allies to enter into any agreements that give immunity to people who are charged with war crimes, with the brutality of gang rapes, and torture. And there are hundreds of examples that we have had now from eyewitness accounts that we hope to prosecute.

Mr. WARNER. Madam President, I don't intend to take the Senator's time. I intend to support the resolution. I thought a colloquy would bring out questions that others might have in mind and would clarify any doubts.

Madam President, thank you.

Mr. LEVIN. If the Senator will yield further while she is being interrupted, I want to commend the good Senator from Louisiana for her steadfastness, and for the sponsors' steadfastness on that very point. There was no provision for amnesty in Dayton. There was no provision for amnesty at Rambouillet. There should be no such provision, nor should the door be opened a crack to any such possibility. People must be held accountable for war crimes. I do not think for 1 minute that there is room for negotiation on that issue, or else we will see an endless repetition of the kind of cleansing of ethnic groups that we have seen in the Balkans.

I commend the sponsors, and particularly the Senator from Louisiana for her strength and support.

Mr. WARNER. Madam President, I likewise commend the esteemed colleague and Senator from Louisiana for an important amendment which will send a signal at this time. It is very timely.

I wish to commend my distinguished colleague from Pennsylvania. It is a very interesting combination of two Senators coming to the floor on an important point.

Ms. LANDRIEU. I thank the Senator. The Senator from Pennsylvania surely brings a tremendous amount of expertise, having been a prosecutor and having dealt with these issues on a domestic basis and an international basis.

Let me just conclude by pointing out and explaining what this picture is. This looks like a picture of people burying bodies. But actually, because this is part of a 20-minute video, this is a snapshot, of people exhuming bodies, digging up a mass grave, to try to hide or relocate these victims. The State Department believes that the Serbs are placing the bodies around bomb sites to mislead the Yugoslavian people and the international community.

This is an important part of the world. If I can close by putting up a map of Yugoslavia—this is not a small, insignificant area—Yugoslavia lays in the heart of Europe on the Mediterranean Sea where civilizations have lasted for thousands and thousands of years. We have fought wars and millions of soldiers have died. Americans have spent fortunes and generations of blood helping Europe to achieve peace. In large part we have succeeded. With this one important exception. Establishing law and order through the Tribunal is the first step on a long road of recovery. That is the point of this resolution.

I hope we will be successful today, and that it will give us the strength to maintain our resolve to bring justice to people who are depending on us.

Thank you, Madam President. I yield the floor.

Mr. LEVIN. Madam President, I ask unanimous consent that I be added as a cosponsor to the amendment.

One of the points raised by the Senator from Virginia is a technical drafting issue, which I think is a relevant one. I believe we can correct it in conference. I think its importance was pointed out.

The PRESIDING OFFICER. The hour of 5:30 having arrived, the question is on agreeing to Amendment No. 384.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Alaska (Mr. MURKOWSKI), the Senator from Arizona (Mr. MCCAIN), and the Senator from Arkansas (Mr. HUTCHINSON) are necessarily absent.

I further announce that, if present and voting, the Senator from Arkansas (Mr. HUTCHINSON) would vote ''yea.''

Mr. REID. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Georgia (Mr. CLELAND), the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Rhode Island (Mr. REED), and the Senator from New Jersey (Mr. TORRICELLI) are necessarily absent.

I further announce that, if present and voting the Senator from Rhode Island (Mr. REED) and the Senator from Connecticut (Mr. LIEBERMAN) would each vote ''yea.''

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

The result was announced—yeas 90, nays 0, as follows:

[Rollcall Vote No. 141 Leg.]

YEAS—90

Abraham	Edwards	Lott
Akaka	Enzi	Lugar
Allard	Feinstein	Mack
Ashcroft	Fitzgerald	McConnell
Baucus	Frist	Mikulski
Bayh	Gorton	Moynihan
Bennett	Graham	Murray
Bingaman	Gramm	Nickles
Bond	Grams	Reid
Boxer	Grassley	Robb
Breaux	Gregg	Roberts
Brownback	Hagel	Rockefeller
Bryan	Harkin	Roth
Bunning	Hatch	Santorum
Burns	Helms	Sarbanes
Byrd	Hollings	Schumer
Campbell	Hutchison	Sessions
Chafee	Inhofe	Shelby
Cochran	Inouye	Smith (NH)
Collins	Jeffords	Smith (OR)
Conrad	Johnson	Snowe
Coverdell	Kerrey	Specter
Craig	Kerry	Stevens
Crapo	Kohl	Thomas
Daschle	Kyl	Thompson
DeWine	Landrieu	Thurmond
Dodd	Lautenberg	Voinovich
Domenici	Leahy	Warner
Dorgan	Levin	Wellstone
Durbin	Lincoln	Wyden

NOT VOTING—10

Biden	Kennedy	Reed
Cleland	Lieberman	Torricelli
Feingold	McCain	
Hutchinson	Murkowski	

The amendment (No. 384) was agreed to.

Mr. NICKLES. Mr. President, Senator MURKOWSKI was unable to cast a vote on this amendment because of unavoidable flight cancellations back to Washington.

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

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

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, at this time on behalf of the distinguished majority leader, I ask unanimous consent that at 9:30 on Tuesday, tomorrow, the Senate resume the DOD authorization bill and Senator SMITH of New Hampshire be recognized for up to 20 minutes on a matter regarding the historic connection of the U.S.S. *Indianapolis* to the history of our Nation, to be immediately followed by 30 minutes for debate, equally divided, with an additional 10 minutes under the control of Senator GRAMM relative to Senator ROTH's amendment regarding Admiral Kimmell and General Short.

I further ask consent that following that debate, the amendment be temporarily set aside and there then be 1 hour for debate equally divided relative to the Roberts-Warner amendment No. 377.

I further ask that following that debate, the amendment be laid aside and then there be up to 1 hour equally divided relative to the Wellstone amendment No. 382.

I finally ask consent that at 2:15 on Tuesday, the Senate proceed to a vote on or in relation to the Roth amendment and, following that vote, the Roberts-Warner amendment No. 378 be agreed to and the Senate immediately proceed to a vote on amendment No. 377, as amended, to be followed by a vote on or in relation to amendment No. 382, with 2 minutes for explanation prior to each vote.

For the information of all Senators——

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. Reserving the right to object, Mr. President—no objection.

The PRESIDING OFFICER. If there is no objection, so ordered.

Mr. WARNER. I thank the Chair.

For the information of all Senators, the next votes will occur at 2:15 p.m. on Tuesday. It is the hope of leadership that passage could occur by close of business Tuesday night or Wednesday morning. On behalf of the majority leader and, I am sure, the minority leader, we urge our colleagues to do everything they can to make this possible.

The distinguished whip.

Mr. REID. Mr. President, I don't know of two more able managers of a bill than the Senator from Virginia and the Senator from Michigan. But on behalf of the minority, I say that it would break all records of the Senate to finish this bill tomorrow night. It simply is not possible to do.

We in the minority are going to cooperate in every way we can. The fact that we have these two fine managers doesn't mean we can perform a miracle.

Additionally compounding the issue, I have been told that there has been an amendment filed dealing with the Kosovo situation that could take days of debate, not hours of debate.

We are willing to cooperate. There is no one on this side who wants to hold up this bill for any purpose other than the fact that we want to have a good bill. In short, we have shown in the past few months since this Congress has been in session that we have cooperated every way we can, as indicated by the work that was done in reducing 91 Democratic amendments on the juvenile justice bill to a mere handful of amendments so we could get that passed by Thursday evening.

In short, we want to help. We want to cooperate in any way we can. But we cannot be part of this miracle, because it won't happen.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, let me thank the Senator from Nevada for not only all of his help in getting bills passed but also in realistically assessing situations, which is part of his job.

I must say, given the amendments we already know of, while I am hopeful, too, of completing action on this bill at some point this week, I do not see how the hopes, as expressed here, can come to reality, given the substance of some of these amendments.

Again, the Kosovo amendment alone, I think, would precipitate a significant, lengthy debate on this floor, given all of the circumstances and the length of time which that subject has already required for debate, and the fact that we are in the middle of a conflict right now, and the ramifications for that conflict and the signals which would be sent to the prime creator of that conflict, Mr. Milosevic. It would be a lengthy debate, I think. I would like to finish this bill by Wednesday, too, but I just can't see, given that amendment and other amendments which are significant, that that is a realistic assessment.

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

Mr. LEVIN. I would be happy to.

Mr. REID. It is not a member of the minority who filed that amendment. It is a member of the majority who has filed that amendment; is that true?

Mr. LEVIN. That is correct.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

(The remarks of Mr. DOMENICI pertaining to the submission of S. Res. 106 are printed in today's RECORD under ''Submission of Concurrent and Senate Resolutions.'')

AMENDMENT NO. 388

(Purpose: To request the President to advance the late Rear Admiral (retired) Husband E. Kimmel on the retired list of the Navy to the highest grade held as Commander in Chief, United States Fleet, during World War II, and to advance the late Major General (retired) Walter C. Short on the retired list of the Army to the highest grade held as Commanding General, Hawaiian Department, during World War II, as was done under the Officer Personnel Act of 1947 for all other senior officers who served in positions of command during World War II)

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

The PRESIDING OFFICER. Without objection, the previous amendments will be set aside, and the clerk will report.

The assistant legislative clerk read as follows:

The Senator from Delaware [Mr. ROTH], for himself, Mr. BIDEN, Mr. THURMOND, and Mr. KENNEDY, proposes an amendment numbered 388.

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

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

(The text of the amendment (No. 388) is printed in today's RECORD under ''Amendments Submitted.'')

Mr. ROTH. Mr. President, I rise today on behalf of my colleague from Delaware, Senator BIDEN, and on behalf of Senator THURMOND and Senator KENNEDY to introduce an amendment whose intent is to redress a grave injustice that haunts us from the tribulations of World War II.

Admiral Husband Kimmel and General Walter Short were the two senior commanders of U.S. forces deployed in the Pacific at the time of the disastrous surprise December 7, 1941, attack on Pearl Harbor. In the immediate aftermath of the attack, they were unfairly and publicly charged with dereliction of duty and blamed as singularly responsible for the success of that attack.

Less than 6 weeks after the Pearl Harbor attack, in a hastily prepared report to the President, the Roberts Commission—perhaps the most flawed and unfortunately most influential investigation of the disaster—levelled the dereliction of duty charge against Kimmel and Short—a charge that was immediately and highly publicized.

Admiral William Harrison Standley, who served as a member of this Commission, later disavowed its report, stating that these two officers were ''martyred'' and ''if they had been brought to trial, they would have been cleared of the charge.''

Later, Admiral J.O. Richardson, who was Admiral Kimmel's predecessor as Commander-in-Chief, U.S. Pacific Fleet, wrote:

In the impression that the Roberts Commission created in the minds of the American people, and in the way it was drawn up for that specific purpose, I believe that the report of the Roberts Commission was the most unfair, unjust, and deceptively dishonest document ever printed by the Government Printing Office.

After the end of World War II, this scapegoating was given a painfully enduring veneer when Admiral Kimmel and General Short were not advanced on the retired lists to their highest ranks of war-time command—an honor that was given to every other senior commander who served in war-time positions above his regular grade.

Admiral Kimmel, a two star admiral, served in a four star command. General Short, a two star general, served in a three star command. Let me repeat, advancement on the retired lists was granted to every other flag rank officer who served in World War II in a post above their grade.

That decision against Kimmel and Short was made despite the fact that war-time investigations had exonerated these commanders of the dereliction of duty charge and criticized their higher commands for significant failings that contributed to the success of the attack on Pearl Harbor. More than six studies and investigations conducted after the war, including one Department of Defense report completed in 1995 at Senator THURMOND'S request, reconfirmed these findings.

Our amendment is a rewrite of Senate Joint Resolution 19, the Kimmel-Short Resolution, that I, Senator BIDEN, Senator THURMOND, Senator HELMS, Senator STEVENS, Senator COCHRAN, Senator KENNEDY, Senator DOMENICI, Senator SPECTER, Senator ENZI, Senator MURKOWSKI, Senator ABRAHAM, Senator CRAIG, Senator DURBIN, Senator JOHN KERRY, Senator KYL, Senator HOLLINGS, Senator BOB SMITH, Senator COLLINS, Senator LANDRIEU, Senator VOINOVICH, Senator DEWINE, and Senator FEINSTEIN—a total of 23 cosponsors—introduced last month.

The amendment calls upon the President of the United States to advance posthumously on the retirement lists Admiral Kimmel and General Short to the grades of their highest war-time commands. Its passage would communicate the Senate's recognition of the injustice done to them and call upon the President to take corrective action.

Such a statement by the Senate would do much to remove the stigma of blame that so unfairly burdens the reputations of these two officers. It is a correction consistent with our military's tradition of honor.

Mr. President, the investigations providing clear evidence that Admiral Kimmel and General Short were unfairly singled out for blame include a 1944 Navy Court of Inquiry, the 1944 Army Pearl Harbor Board of Investigation, a 1946 Joint Congressional Committee, and a 1991 Army Board for the Correction of Military Records.

To give you the sense of the thoroughness of these investigations, I have before me the volumes that constitute the Joint Congressional Committee's final report that compiles many of these studies.

I think they demonstrate, beyond question, the thoroughness with which the investigation had proceeded.

The findings of these official reports can be summarized as four principal points.

First, there is ample evidence that the Hawaiian commanders were not provided vital intelligence that they needed, and that was available in Washington prior to the attack on Pearl Harbor.

Second, the disposition of forces in Hawaii were proper and consistent with the information made available to Admiral Kimmel and General Short.

In my review of this fundamental point, I was most struck by the honor and integrity demonstrated by General George Marshall who was Army Chief of Staff at the time of the December 7, 1941 attack on Pearl Harbor.

On November 27 of that year, General Short interpreted a vaguely written war warning message sent from the high command in Washington as suggesting the need to defend against sabotage. Consequently, he concentrated his aircraft away from perimeter roads to protect them, thus inadvertently increasing their vulnerability to air attack. When he reported his preparations to the General Staff in Washington, the General Staff took no steps to clarify the reality of the situation.

In 1946, before a Joint Congressional Committee on the Pearl Harbor disaster, General Marshall testified that he was responsible for ensuring the proper disposition of General Short's forces. He acknowledged that he must have received General Short's report, which would have been his opportunity to issue a corrective message, and that he failed to do so.

Mr. President, General Marshall's integrity and sense of responsibility is a model for all of us. I only wish it had been able to have greater influence over the case of Admiral Kimmel and General Short.

A third theme of these investigations concerned the failure of the Department of War and the Department of the Navy to properly manage the flow of intelligence. The 1995 Department of Defense report stated that the handling of intelligence in Washington during the time leading up to the attack on Pearl Harbor was characterized by, among other faults, ineptitude, limited coordination, ambiguous language, and lack of clarification and follow-up.

The fourth and most important theme that permeates the aforementioned reports is that blame for the disaster at Pearl Harbor cannot be placed only upon the Hawaiian commanders. They all underscored significant failures and shortcomings of the senior authorities in Washington that contributed significantly—if not predominantly—to the success of the surprise attack on Pearl Harbor.

The 1995 Department of Defense report put it best, stating that ''responsibility for the Pearl Harbor disaster should not fall solely on the shoulders

of Admiral Kimmel and General Short; it should be broadly shared.''

This is an important quote. It shows that the Department of Defense recognizes that these two commanders should not be singled out for blame. Yet, still today on this issue, our government's words do not match its actions.

Kimmel and Short remain the only two officials who have been forced to pay a price for the disaster at Pearl Harbor.

Let me add one poignant fact about the two wartime investigations. Their conclusions—that Kimmel's and Short's forces had been properly disposed according to the information available to them and that their superiors had failed to share important intelligence—were kept secret on the grounds that making them public would have been detrimental to the war effort.

Be that as it may, there is no longer any reason to perpetuate the cruel myth that Kimmel and Short were singularly responsible for the disaster at Pearl Harbor. Admiral Spruance, one of our great naval commanders of World War II, shares this view. He put it this way:

''I have always felt that Kimmel and Short were held responsible for Pearl Harbor in order that the American people might have no reason to lose confidence in their government in Washington. This was probably justifiable under the circumstances at that time, but it does not justify forever damning those two fine officers.''

Mr. President, to do so is not only unfair, it tarnishes our nation's military honor.

Mr. President, this sense of the Senate has been endorsed by countless military officers, including those who have served at the highest levels of command. These include former Chairmen of the Joint Chiefs of Staff Admiral Thomas H. Moorer and Admiral William J. Crowe, and former Chiefs of Naval Operations Admiral J.L. Holloway III, Admiral Elmo R. Zumwalt and Admiral Carlisle A.H. Trost.

Moreover a number of public organizations have called for posthumous advancement of Kimmel and Short. Last August, the VFW passed a resolution calling for the advancement of Admiral Kimmel and General Short.

Let me add that Senator Robert Dole, one of our most distinguished colleagues and a veteran who served heroically in World Warr II, has also endorsed this sense of the Senate resolution.

This resolution now in amendment form is about justice, equity, and honor. Its purpose is to redress an historic wrong, to ensure that Admiral Kimmel and General Short are treated with the dignity and honor they deserve, and to ensure that justice and fairness fully permeate the memory and lessons learned from the catastrophe at Pearl Harbor.

As we approach Memorial Day and prepare to honor those who served to protect our great nation, it is a most appropriate time to redress this injustice. After 58 years, this correction is long overdue. I urge my colleagues to support this joint resolution.

Mr. President, I ask unanimous consent that a number of exhibits be printed in the RECORD, including a statement from the Veterans of Foreign Wars, including a resolution adopted by the Veterans of Foreign Wars, a letter from several distinguished admirals of the U.S. Navy who are alive and sent this to us comparatively recently, likewise a letter from the Pearl Harbor Survivors Association, Inc., and finally a copy of the letter from Senator Bob Dole to myself.

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

To: All Members of the United States Senate 105th U.S. Congress

From: Thomas A. Pouliot, Commander-in-Chief Veterans of Foreign Wars of the United States

Date: 28 September 1998.

On August 31, 1998, the delegates to 99th National Convention of the Veterans of Foreign Wars of the United States unanimously approved Resolution Number 441, ''Restore Pre-Attack Ranks to Admiral Husband E. Kimmel and General Walter C. Short.'' A copy of VFW Resolution Number 441 is attached for your review.

Based on our resolution and a review of S.J. Res. 55, we believe the goals of both the Senate and VFW resolutions are similar and consistent.

Therefore, we strongly endorse this bill and ask that the Senate remove the burden of guilt for the attack on Pearl Harbor from the shoulders of Admiral Kimmel and General Short.

Respectfully,

THOMAS A. POULIOT,
Commander-in-Chief.

VETERANS OF FOREIGN WARS OF THE UNITED STATES,
Washington, DC, June 25, 1998.

Hon. WILLIAM S. COHEN,
The Secretary of Defense,
The Pentagon, Washington, DC.

DEAR MR. SECRETARY: Last month, Senators JOE BIDEN and WILLIAM ROTH of Delaware sent a letter urging you to recommend to the President that Admiral Husband Kimmel and General Walter Short be advanced posthumously to their wartime ranks of four star Admiral and Lieutenant General respectively.

The Veterans of Foreign Wars of the United States supports the recommendation of Senators BIDEN and ROTH, and asks that you consider their request.

Thank you for your consideration.

Sincerely,

JOHN E. MOON,
Commander-in-Chief.

RESOLUTION NO. 441—RESTORE PRE-ATTACK RANKS TO ADMIRAL HUSBAND E. KIMMEL AND GENERAL WALTER C. SHORT

Whereas, Admiral Husband E. Kimmel and General Walter C. Short were the Commanders of Record for the Navy and Army Forces at Pearl Harbor, Hawaii, on December 7, 1941, when the Japanese Imperial Navy launched its attack; and

Whereas, following the attack, President Franklin D. Roosevelt appointed Supreme Court Justice Owen J. Roberts to a commission to investigate such incident to determine if there had been any dereliction to duty; and

Whereas, the Roberts Commission conducted a rushed investigation in only five weeks. It charged Admiral Kimmel and General Short with dereliction of their duty. The findings were made public to the world; and

Whereas, the dereliction of duty charge destroyed the honor and reputations of both Admiral Kimmel and General Short, and due to the urgency neither man was given the opportunity to defend himself against the accusation of dereliction of duty; and

Whereas, other investigations showed that there was no basis for the dereliction of duty charges, and a Congressional investigation in 1946 made specific findings that neither Admiral Kimmel nor General Short had been ''derelict in his duty'' at the time of the bombing of Pearl Harbor; and

Whereas, it has been documented that the United States military had broken the Japanese codes in 1941. With the use of a cryptic machine known as ''Magic,'' the military was able to decipher the Japanese diplomatic code known as ''Purple'' and the military code known as JN–25. The final part of the diplomatic message that told of the attack on Pearl Harbor was received on December 6, 1941. With this vital information in hand, no warning was dispatched to Admiral Kimmel or General Short to provide sufficient time to defend Pearl Harbor in the proper manner; and

Whereas, it was not until after the tenth investigation of the attack on Pearl Harbor was completed in December of 1995 that the United States Government acknowledge in the report of Under Secretary of Defense Edwin S. Dorn that Admiral Kimmel and General Short were not solely responsible for the disaster, but that responsibility must be broadly shared; and

Whereas, at this time the American public has been deceived for the past fifty-six years regarding the unfound charge of dereliction of duty against two fine military officers whose reputations and honor have been tarnished; now, therefore

Be It Resolved, by the Veterans of Foreign Wars of the United States, that we urge the President of the United States to restore the honor and reputations of Admiral Husband E. Kimmel and General Walter C. Short.

* * * * *

To: Honorable Members of the United States Senate.

From: Thomas H. Moorer, Admiral, U.S. Navy (Ret.), Former Chairman, Joint Chiefs of Staff, Former Chief of Naval Operations; J.L. Holloway III, Admiral, U.S. Navy (Ret.), Former Chief of Naval Operations; William J. Crowe, Admiral, U.S. Navy (Ret.), Former Chairman, Joint Chiefs of Staff; Elmo R. Zumwalt, Admiral, U.S. Navy (Ret.), Former Chief of Naval Operations; Carlisle A.H. Trost, Admiral, U.S. Navy (Ret.), Former Chief of Naval Operations.

Re: The Honor and Reputations of Admiral Husband Kimmel and General Walter Short.

DEAR SENATOR: We ask that the honor and reputations of two fine officers who dedicated themselves to the service of their country be restored. Admiral Husband Kimmel and General Walter Short were singularly scapegoated as responsible for the success of the Japanese attack on Pearl Harbor December 7, 1941. The time is long overdue to reverse this inequity and treat Admiral Kimmel and General Short fairly and justly. The appropriate vehicle for that is the current Roth-Biden Resolution.

The Resolution calls for the posthumous advancement on the retired list of Admiral

Kimmel and General Short to their highest WWII wartime ranks of four-star admiral and three-star general as provided by the Officer Personnel Act of 1947. They are the only two eligible officers who have been singled out for exclusion from that privilege; all other eligible officers have been so privileged.

We urge you to support this Resolution.

We are career military officers who have served over a period of several decades and through several wartime eras in the capacities of Chairman, Joint Chiefs of Staff and/or Chief of Naval Operations. Each of us is familiar with the circumstances leading up to the attack on Pearl Harbor.

We are unanimous in our conviction that Admiral Husband Kimmel and General Walter Short were not responsible for the success of that attack, and that the fault lay with the command structure at the seat of government in Washington. The Roth-Biden Resolution details specifics of this case and requests the President of the United States to nominate Kimmel and Short for appropriate advancement in rank.

As many of you know, Admiral Kimmel and General Short were the Hawaiian Commanders in charge of naval and ground forces on Hawaii at the time of the Japanese attack. After a hurried investigation in January, 1942 they were charged with having been ''derelict in their duty'' and given no opportunity to refute that charge which was publicized throughout the country.

As a result, many today believe the ''dereliction'' charge to be true despite the fact that a Naval Court of Inquiry exonerated Admiral Kimmel of blame; a Joint Congressional Committee specifically found that neither had been derelict in his duty; a four-to-one majority of the members of a Board for the Correction of Military Records in the Department of the Army found that General Short had been ''unjustly held responsible'' and recommended his advancement to the rank of lieutenant general on the retired list.

This injustice has been perpetuated for more than half a century by their sole exclusion from the privilege of the Act mentioned above.

As professional military officers we support in the strongest terms the concept of holding commanders accountable for the performance of their forces. We are equally strong in our belief in the fundamental American principle of justice for all Americans, regardless of creed, color, status or rank. In other words, we believe strongly in fairness.

These two principles must be applied to the specific facts of a given situation. History as well as innumerable investigations have proven beyond any question that Admiral Kimmel and General Short were not responsible for the Pearl Harbor disaster. And we submit that where there is no responsibility there can be no accountability.

But as a military principle—both practical and moral—the dynamic of accountability works in both directions along the vertical line known as the chain of command. In view of the facts presented in the Roth-Biden Resolution and below—with special reference to the fact that essential and critical intelligence information was withheld from the Hawaiian Commanders despite the commitment of the command structure to provide that information to them—we submit that while the Hawaiian commanders were as responsible and accountable as anyone could have been given the circumstances, their superiors in Washington were sadly and tragically lacking in both of these leadership commitments.

A review of the historical facts available on the subject of the attack on Pearl Harbor demonstrates that these officers were not treated fairly.

1. They accomplished all that anyone could have with the support provided by their superiors in terms of operating forces (ships and aircraft) and information (instructions and intelligence). Their disposition of forces, in view of the information made available to them by the command structure in Washington, was reasonable and appropriate.

2. Admiral Kimmel was told of the capabilities of U.S. intelligence (MAGIC, the code-breaking capability of PURPLE and other Japanese codes) and he was promised he could rely on adequate warning of any attack based on this special intelligence capability. Both Commanders rightfully operated under the impression, and with the assurance, that they were receiving the necessary intelligence information to fulfill their responsibilities.

3. Historical information now available in the public domain through declassified files, and post-war statements of many officers involved, clearly demonstrate that vital information was routinely withheld from both commanders. For example, the ''Bomb Plot'' message and subsequent reporting orders from Tokyo to Japanese agents in Hawaii as to location, types and number of warships, and their replies to Tokyo.

4. The code-breaking intelligence of PURPLE did provide warning of an attack on Pearl Harbor, but the Hawaiian Commanders were not informed. Whether deliberate or for some other reason should make no difference, have no bearing. These officers did not get the support and warnings they were promised.

5. The fault was not theirs. It lay in Washington.

We urge you, as Members of the United States Senate, to take a leadership role in assuring justice for two military careerists who were willing to fight and die for their country, but not to be humiliated by its government. We believe that the American people—with their national characteristic of fair play—would want the record set straight. Thank you.

Respectfully,

ADM. THOMAS H. MOORER.
ADM. WILLIAM J. CROWE.
ADM. J.L. HOLLOWAY III.
ADM. ELMO R. ZUMWALT.
ADM. CARLISLE A.H. TROST.

PEARL HARBOR SURVIVORS ASSOCIATION, INC.
Lancaster, CA, January 14, 1991.

Re: Resolution No. 6.

EDWARD R. KIMMEL,
Wilmington, DE.

DEAR MR. KIMMEL: I am writing to you in regards to the resolution that we of the Pearl Harbor Survivors Association, Inc. passed at our National Convention in Albuquerque, NM. this past December 6, 1990.

Subject: A resolution to restore the full wartime rank of Adm. Kimmel and Gen. Short, (posthumously).

Whereas: Following the surprise Japanese attack on Pearl Harbor December 7, 1941 the two officers in command of U.S. armed forces at Pearl Harbor, Admiral Husband E. Kimmel (Pacific Fleet Commander) and Lieutenant General Walter C. Short (Hawaii Army Commander) were retired in ''permanent grade'' from their respective branches of the armed forces.

Whereas: At the time of the attack Admiral Kimmel was serving in a temporary appointment as full Admiral (four stars) but was retired as Rear Admiral (two stars), his permanent grade.

Whereas: At the time of the attack, Lieutenant General Short was serving in a temporary appointment as Lieutenant General (three stars) but was retired as a Major General (two stars), his permanent grade.

Whereas: In 1947 provisions were enacted in the laws governing retirement from the armed forces which permitted officers who had temporarily served in a higher rank to be advanced on the retired list to that higher rank, without benefit of higher pay, when recommended for such advancement by the Secretary of Defense and approved by the President of the United States and concurred in by the Senate.

Whereas: Recently published historical writings and film documentaries established that Admiral Kimmel and General Short were unjustly made scapegoats for the success of the surprise attack on Pearl Harbor and other military installations on Oahu on December 7, 1941.

Whereas: At its National Convention in December 1984 at Grossingers Resort in New York State, the Pearl Harbor Survivors Association, Inc. representing voices of the time, unanimously passed a resolution honoring the memory of Admiral Kimmel and General Short and praising them for having single-handedly shouldered the full blame for the disaster at Pearl Harbor when, in fact, others, and the whole nation should have shared the burden.

Whereas: The terms of the 1984 resolution were fulfilled at the PHSA 45th reunion in Hawaii in December, 1986 when these officers' nearest living next-of-kin were presented beautifully inscribed plaques honoring Admiral Kimmel and General Short with an expression of admiration and respect.

Resolved: (1) That the Pearl Harbor Survivors Association urges the Secretary of Defense to recommend to the President of the United States that he nominate Rear Admiral Husband E. Kimmel (Retired) (Deceased) for posthumous promotion to the rank of full Admiral on the list of retired naval officers and Major General Walter C. Short (Retired) (Deceased) for posthumous promotion to the rank of Lieutenant General on the list of retired army officers, these ranks being the highest in which these officers served while on active duty in the armed forces of the United States in 1941.

Resolved further: (2) That the Pearl Harbor Survivors Association urges the President of the United States to make the aforedescribed nominations and send them to the Senate of the United States for its advice and consent with the recommendation that they be favorably acted upon by that body.

Resolved further: (3) That the Pearl Harbor Survivors Association, Inc. urges the Senate of the United States to give its advice and consent to the aforementioned nominations.

Resolved further: (4) That the Secretary of the Pearl Harbor Survivors Association, Inc. forward copies of these resolutions to the Secretary of Defense, the President of the United States, the Secretary of the U.S. Senate, and to the Chairman and each member of the Senate Armed Forces Committee.

Submitted by Alex D. Cobb, Jr.

We the officers of the Association are now in the process of complying with the above resolution and hopefully will have it in place for the 50th Anniversary of Pearl Harbor.

If I can be of further help please feel free to contact me.

Sincerely,

KENNETH R. CREESE,
National Secretary.

SENATOR BOB DOLE
Washington, DC, March 11, 1999.

Hon. WILLIAM V. ROTH, JR.,
Hart Senate Office Building,
Washington, DC.

DEAR BILL: I will join my voice with yours in support of the Kimmel-Short Resolution of 1999.

The responsibility for the Pearl Harbor disaster should be shared by many. In light of the more recent disclosures of withheld information Admiral Kimmel and Lieutenant General Short should have had, I agree these two commanders have been unjustly stigmatized.

Please keep me informed of the progress of this resolution.

Sincerely,

BOB DOLE.

The PRESIDING OFFICER. The senior Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in support of the amendment sponsored by my friends from Delaware—Senators ROTH and BIDEN.

Admiral Husband E. Kimmel and General Walter C. Short were both unfairly maligned for their roles during the invasion of Pearl Harbor. They were blamed for not anticipating nor being prepared for the attack. Admiral Kimmel was commander of U.S. forces in the Pacific, and General Short was commander of U.S. Army forces. The overwhelming consensus of the academic community and retired flag officers, most notably naval officers, concur that history must be set straight in this matter.

Admiral Kimmel and General Short are, in my opinion, the two final victims of Pearl Harbor. Both officers were relieved of their commands, their careers and reputations destroyed after being blamed for negligence and dereliction of duty. These men were doing their duty to the best of their ability, and without full cooperation from superiors in their chain-of-command. Despite the fact that the charge of dereliction of duty was never proved, that charge still exists in the minds of many people.

Surprisingly, almost everyone above these two officers escaped censure. Yet, we know now that civilian and military officials in Washington withheld vital intelligence information which could have more fully alerted the field commanders to their imminent peril.

In judging Admiral Kimmel and General Short, the following facts have been repeatedly substantiated, but wrongfully and continually ignored:

The intelligence made available to the Pearl Harbor commanders was not sufficient to justify a higher level of vigilance than was maintained prior to the attack.

Neither officer knew of the decoded intelligence in Washington indicating the Japanese had identified the United States as an enemy.

Both commanders were assured by their superiors they were getting the best intelligence available at the time.

There were no prudent defensive options available for the officers that would have significantly affected the outcome of the attack.

Military, governmental and congressional investigations have provided clear evidence that these two commanders were singled out for blame that should have been widely shared.

In 1995, I held an in-depth meeting to review this matter which included the officers' families, historians, experts and retired high-ranking military officers, who all testified in favor of the two commanders.

In response to this review, Under Defense Secretary Edwin Dorn's subsequent report disclosed officially—for the first time—that blame should be ''broadly shared.'' The Dorn Report stated members of the high command in Washington were privy to intercepted Japanese messages that in their totality ''. . . pointed strongly toward an attack on Pearl Harbor on the 7th of December, 1941 . . .'' and that this intelligence was never sent to the Hawaiian commanders.

The Dorn Report went so far as to characterize the handling of critically important decoded Japanese messages in Washington as revealing ''ineptitude . . . unwarranted assumptions and misestimates, limited coordination, ambiguous language, and lack of clarification and follow-up at higher levels.''

They are eligible for this advancement in rank by token of the Officer Personnel Act of 1947, which authorizes retirement at highest wartime rank. All eligible officers have benefitted. All except for two: Admiral Kimmel and General Short. This advancement in rank would officially vindicate them. No retroactive pay would be involved.

The posthumous promotion of Admiral Kimmel and General Short will be a small step in restoring honor to these men.

It is time for Congress and the Administration to step forward and do the right thing.

I urge adoption of the amendment and yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, with great reluctance, I oppose this amendment. I do so based on some independent study that I have made, and indeed, I guess, throughout my lifetime. I had a very, very modest period of active service at the end of World War II in 1945 for a period of about 15 or 18 months. I can't remember now.

Anyway, I lived my lifetime through this period of history. Therefore, all of my active service in that period was here in the United States, preparing to join others of my generation for the invasion of Japan, which I thank the Dear Lord did not take place.

I have gone through enough of this material to satisfy me that what we are faced with here is one generation trying to provide revisionist history upon another. That is, in my judgment, unwise, and it could well promote many other meritorious cases during that period of history—and who knows, going way back in history—to be brought to this Congress for similar rectification or whatever the petition may say.

The records show that the request by my two distinguished esteemed colleagues initiated correspondence beginning in 1994—that is roughly 5 years ago. Secretary Perry on 7, September, 1994; again on 22 November, 1994; President Reagan, 1, December, 1994; Deputy Secretary John Deutch, 10, December, 1994; Perry, 5 March, 1995; Deutch, 24 March of 1995; the Dorn Report on 6, October, 1995; Deputy Secretary Defense John White, December of 1995; Secretary Cohen here in 18, November, 1997; and P&R de Leon, on 20, July, 1998.

In other words, for 5 years the Department of Defense has devoted a good deal of time and effort to try—I presume and I certainly assume—to make an objective analysis of all of these letters, and have turned down the various requests from my two senior colleagues.

First, I ask my distinguished colleague from Delaware, because I look at this very imposing collection of documents and I reflect on the number of inquiries that have been held throughout history, these are the inquiries that have been held regarding these two officers and their association with the tragic losses of men, women, and assets of the United States on December 7, 1941.

We start with the Knox Investigation, December 9 through 14, in 1941. That was followed by the Roberts Commission, December 18 through January 23, 1942; the Hart Investigation, February 12 through June 15 of 1944; the Army Pearl Harbor Board, July 20 through October 20, 1944; Navy Court of Inquiry, July 24 through October 19, 1944; the Clark Investigation, August 4 through September 20, 1944; the Hewitt Inquiry, May 14 through July 11, 1945; the Clausen Investigation, January 24 through September 12, 1945; the Joint Congressional Committee, November 15 through May 23, 1945.

Based on the results of all those investigations, Secretary of Defense Cohen wrote to Senator THURMOND and presumably Senator ROTH. He said:

DEAR MR. CHAIRMAN: Thank you for your interest in exonerating the names of Admiral Kimmel and General Short. In the years since the fateful events at Pearl Harbor there have been numerous formal investigations of the events leading up to the attack, including sharp debate over our state of readiness at the time.

While Under Secretary of Defense for Personnel and Readiness, Mr. Edwin Dorn conduced a thorough review of this issue in 1995. He carefully considered the information contained in nine previous formal investigations, visited Pearl Harbor and personally met with the Kimmel and Short families. His conclusion was that responsibility for the Pearl Harbor disaster must be broadly shared, but that the record does not show that advancement of Admiral Kimmel and General Short on the retired list is warranted.

I appreciate the fact that the overwhelming consensus of the organizations and personnel mentioned in your letter recommend exoneration of Admiral Kimmel and General Short. Absent significant new information, however, I do not believe it is appropriate to order another review of this matter.

Ed Dorn and I both agree that responsibility for this tragic event in American history must be broadly shared, yet I remain

confident in the findings that Admiral Kimmel and General Short remain accountable in their positions as leaders.

The first question to my distinguished colleague, this amendment would have the effect of no longer holding them accountable for this tragedy. If that be the case, who is to be held accountable for this tragedy?

Mr. ROTH. I point out to my distinguished colleague that first of all, the Dorn Report makes the very clear finding that responsibility for the Pearl Harbor disaster should not fall solely on the shoulders of Admiral Kimmel and General Short. It should be broadly shared.

When it says it should be broadly shared, it seems to me it is saying in effect that all of those who had any responsibility for the act should be treated the same. That is basically what we are saying here. These two distinguished gentlemen gave a lifetime of service to their country with distinction. There are many factors that were shown in the other investigations: That they did not have the intelligence, they did not have the information that they were entitled to if they were going to properly discharge their responsibility.

We are not saying here that they were not partly responsible, but they were no more responsible than other leaders in Washington. To me, it is unfair, inequitable and not in the tradition of the military to treat two individuals differently from others.

This is not an effort of a younger generation trying to correct what we think is an unfair situation. I, like the distinguished chairman of the Armed Services Committee, served in World War II with the military. I just think it is only right, it is only just that we treat them exactly the same and let them be promoted to their higher wartime ranks.

There is a responsibility, accountability, among many. Any number of these studies clearly showed that a large part of that responsibility was in Washington.

All we are asking is, let's treat all these people alike—fair and with justice.

Mr. WARNER. Mr. President, I think the Senator has raised a very key point. That is, equality of treatment.

First, the Dorn Report specifically said that they—Kimmel and Short—do bear part of the responsibility. We are in agreement on that.

Mr. ROTH. Yes.

Mr. WARNER. Can the Senator point to any of the investigations that I recited, beginning back in 1941, which in any way, totally or otherwise, exonerated Kimmel or Short?

Mr. ROTH. There were some findings that because of the lack of intelligence, they were not advised of the most up-to-date information that Washington had; they were not at fault.

As a matter of fact, the finding was made that their disposition based on the information they had was appropriate and proper.

Mr. WARNER. Mr. President, before we leave that point, if none of these reports that I recited—some nine in number which had before them live witnesses, clarity of mind and clarity of recollection—did not exonerate these officers, then why should we now at this late date in history try to make a different finding? There could have been other officers who possibly were not advanced in rank. You cite they should be treated equally. How do I know there are not other officers, Army and Navy, who were not advanced in rank because they bore part of the responsibility for this tragedy? So, when you ask for equality, it would seem to me you would have to come forth with all the cases of all those who bore part of the responsibility and show that they were treated differently than Kimmel and Short.

Mr. ROTH. With all due deference to my colleague, that is hypothetical. It is possible that somewhere someone was mistreated. But those facts are not before us. I am not aware of any such charges.

But here we have two individuals about whom many different people agree, from those like Bob Dole, who served with great distinction, from the admirals who were in command, both of the Navy and our military forces, all coming forward with the recommendation that, to be fair, these two individuals should be advanced to their highest wartime rank.

The point the Senator is making is true in life. Many times lawsuits are brought but you cannot, in settling that lawsuit, with the individuals before you—you are not going to solve all the problems of mankind because you only have the facts of those you are considering. Our resolution is a follow-through for two individuals, about whom, time and time again, it was said they served with distinction.

Mr. WARNER. But the Senator said let's treat these two individuals equally with others who bear part of the responsibility—a reasonable request. But I would want to know beforehand, who are the others? How were they treated? Was their treatment commensurate with what the Senator asked for tonight?

Mr. ROTH. No one of whom I am aware, who served in World War II at the time of Pearl Harbor and had any responsibility in Washington, was held accountable and given less rank.

General George Marshall admitted that he had a responsibility, but I do not think anyone suggested, or would want to suggest, that he should have been penalized.

Mr. WARNER. Mr. President, I am primarily concerned with the junior officers in the command of the Army in Hawaii, the command of the Navy in Hawaii. There may have been a number of officers and, indeed, enlisted men—say an intelligence officer. There was a good deal of intelligence out there that the situation was getting very serious, and I will refer to that momentarily. But how do I know their careers were not impeded? They may not have been general officers or flag officers of the U.S. Navy. But whether they were lieutenants or commanders, their careers may well have been blocked. There may be relatives out here and descendants of those officers who feel just as strongly as to the punishment that was meted out to their grandparents or whatever the case may be.

If you are going to open up a case like this, it seems to me it is in the nature of a class action: Let everybody come forward.

Mr. ROTH. I say to the good chairman, the others have not presented the case. These individuals, their families, have tried to correct what I think is a serious wrong. Again, all I can say is that rare is it that by one stroke of action you correct all inequities, all injustices. But here we have two individuals who were scapegoated. Let's face it. They needed to blame somebody. I think as a matter of fact the Roberts investigation was not known for the legal jurisprudence with which it was conducted.

I believe, in fairness to these individuals, the record ought to be set straight. They served their country with great distinction through the years. Disaster occurred at Pearl Harbor, but they alone cannot be held responsible. Most of these reports will admit that. The others were permitted to rise to their highest rank, and I just say as a matter of justice——

Mr. WARNER. Mr. President, we do not know. You make an assumption that others were allowed to rise to their highest rank. I do not know that. There is no evidence before the Senate tonight.

This is but one of, what? How many volumes here? The hearings before the Joint Committee on the Investigation of Pearl Harbor, U.S. Congress, 1945, I count, what, 15 volumes here? To me, that is thoroughness of an investigation. I mean, document after document, page after page in which—let's see, how many Members of Congress, if they list the committee here? I do not see on this volume, but perhaps it is in others, how many Members of Congress were involved. Usually they list them.

How many Members were involved, does the Senator know?

Mr. ROTH. Let me say this. What I do know, as far as the record shows, only two officers were penalized, were punished.

Mr. WARNER. Mr. President, what record does the Senator speak of, that shows only two? Is there any record that shows only two officers in the U.S. military were ever penalized?

Mr. ROTH. No. But to me it is the same sort of thing. You are in a law case. Can you talk about the others who may be involved in the same kind of a problem? We are only trying to correct what I think are two serious cases.

Let me point out any number of distinguished groups and organizations who have come out in support.

Mr. WARNER. The Senator has recited them. Certainly, I accept that for the record. I also commend your able assistant, Mr. Brzezinski here, who has worked tirelessly on this for several years and done the research. But let me ask you this question. We are both lawyers; we spent years in courtrooms. What new evidence do you bring before the Senate tonight to ask for a reversal of some nine different boards and commissions that have reviewed this over a period of these many years? What new evidence do you bring in support of your petition?

Mr. ROTH. It really is not a question, I say to my colleague, of new evidence. The evidence has been there for many years, since 1944, when investigations were made both by the Army and Navy. Time and again, it has been found that these two individuals were not the only ones responsible. Admittedly, they share blame with others. But everybody else in the Service was permitted to keep their rank or raised to their highest.

Mr. WARNER. Mr. President, we do not know that as a fact. The Senator keeps repeating everyone else was allowed to advance. I do not see anything before me.

Mr. ROTH. I say, to the contrary, what is the evidence that there are others? Theoretically, you keep saying there are others. Who are they?

Mr. WARNER. Look at the Dorn report. I would like to refer to that at some point here. Let's just go over the Dorn report. This is a very comprehensive analysis by the Department of Defense over a considerable period of months. I would like to refer to some of their findings.

First, that these officers did receive warning messages on November 27, stating that Japan might take hostile action at any moment. Kimmel and Short concluded the attack would occur in the western Pacific and not Hawaii.

That was apparently their independent judgment.

The Army and Navy were separate departments reporting directly to the President. There is a question about the collaboration of these two senior officers on the islands of Hawaii.

Lack of mission discussion between Kimmel and Short on defense plans for Hawaii and long-range air patrols—in other words, they had not collaborated to coordinate the assets of the United States as a deterrent, or indeed a defense against any attack on which they had warning on November 27. Kimmel and Short did not share their internal intelligence with each other. That, to me, is a very troubling fact.

Just to say, as this report does, that responsibility is broadly shared does not absolve Kimmel and Short of accountability for this action to some degree. For example, the commander has plenary, that is, full, complete, and absolute, responsibility for the welfare of the people under his command and is directly accountable for everything the unit does or fails to do. That is legendary in military history.

Even in the Navy, there are cases where the captain was in his quarters, properly, perhaps, taking a rest and arose with the ship, and there are hundreds of cases where he is held accountable, even though he was not on the bridge at the time.

Three- and four-star positions are listed as positions of importance and responsibility. Both commanders made errors in judgment. The most serious ones were failure to establish a state of readiness in light of warnings received and to liaison between the two commands, i.e., Army and Navy, and to coordinate defensive measures and to maintain effective reconnaissance. Intelligence available to Kimmel and Short was sufficient to justify a higher level of vigilance than was maintained. An officer may be relieved of command if a superior decides the officer has failed to exercise sound judgment. And that is precisely what was done in this case.

The Senator points out that history does show, facts and mitigation, that responsibility was shared in Washington for failure to communicate on a timely basis some intelligence, but it does not absolve them from taking prudent actions as field commanders at a time of very high tension. That is the point I make. Indeed, those facts may have been the mitigating facts that these men were not actually court-martialed and incarcerated for this tragedy. This was an absolute, at the time, frightful blow against the United States of America. All of us have seen the pictures, and we know the history well. That is why it concerns me to try this revisionist action at this late date.

Relief does not require a finding of misconduct or unsatisfactory performance, merely a loss of confidence with regard to the specific command in question. There is a vast difference between a degree of fault which warrants court-martial action and a level of performance which warrants removal of command.

Promotion is based on potential and not past performance. That is, promotion is based on expectation of performance to the level at which the individual is being considered for promotion. Posthumous advancement in rank would be based on the judgment that, at a minimum, they had served satisfactorily at the three- and four-star level. Their superiors at the time decided they had not, and there is no compelling basis to contradict this earlier decision, made at a time when there were live witnesses and clarity of memory in the minds of many.

There may be a debate as to fairness and justice, but there can be no argument about the legitimacy of those who exercised their power for relief in retirement. The official treatment—this report goes on—of Kimmel and Short was subsequently temperate and procedurally proper; mention of court-martial but no charges brought; some allegations that there was no court-martial because the Government feared bringing charges would implicate other senior military and civilian leaders; could also be there were sufficient grounds for successful court-martial prosecution.

Mr. President, there is no new evidence before the Senate tonight. I would like to go on. I am going to put this in the RECORD. Is there some other point the Senator wishes to make? If I understand—you have been very forthright—there has been no new evidence. So what we are really doing is trying to exercise fair and impartial judgment by giving our own independent assessment of facts that were deduced in a timely manner in the period of 1941 to, say, 1946. That is the conclusion of this congressional review.

Now we are determining from those facts which were deduced at the time of clarity of memory and presumably many witnesses who testified before the Congress. We are now asked to make this important decision which is tantamount, in the minds of many Americans, to exonerating totally these two officers from any misconduct or dereliction of duty at the time of Pearl Harbor. I just simply cannot go along with that, I say to the Senator.

First, again, there are no new facts. We are agreed on that.

Mr. ROTH. The issue is not the question of new facts. The issue is the question of fairness. I believe that is as critically important today as it was at the time it occurred. The record is clear that these individuals, General Short and Admiral Kimmel, did not have the intelligence information available at the time that would have enabled them to better address the challenge from the Japanese.

Mr. WARNER. May I ask, is that fact not borne out in many of these hearings that were held in the period of 1941 to 1946? My recollection is that that was always presented at that time, or at least certainly in the congressional one when the war was over.

Mr. ROTH. To me, it is just a difference, I guess, in approach. If you take the position that it happened in the past and it should not be changed, I think that is wrong. I think there is a strong case that these individuals were not treated fairly. The President was given authority under the 1947 act to raise any retired flag officer to the rank——

Mr. WARNER. Mr. President, I remember it well. The Senator will recall we referred to it, those of us down in the ranks, as the tombstone promotion; am I not correct?

Mr. ROTH. That is correct.

Mr. WARNER. That shows our vintage.

Mr. ROTH. I just think it is not fair to these individuals, to their reputation. Admittedly, even the Dorn report makes all kinds of conclusions that

they did not have the information to which they were entitled, that others shared in the responsibility for what happened.

In this country, in the tradition of the military—and I am not a professional soldier, although I did have the pleasure of serving several years in the military——

Mr. WARNER. Mr. President, I might say, with distinction; a fine officer.

Mr. ROTH. I appreciate that. I think the important thing is to show that in our country, individuals who were not treated equitably, the record can be set straight.

Mr. WARNER. On that point, so the Senator's argument tonight is one of fairness. But I say to him, if the Senate were to go along with him, implicitly it would say that all of these reports involving hundreds of conscientious men and perhaps women who were on these boards, some seven or eight boards, were unfair.

Mr. ROTH. I go back to the fact, it was the President who decided in the 1947 act not to raise them to their wartime ranks. I think it is a rank injustice. I think it is a blot on the history of World War II. There are many people one can probably point out who said this, that, or the other.

Here were two gentlemen, one an admiral who had been in command, a naval CO, who was in charge in Hawaii. General Short was in command of the Army Hawaiian department. They did not have the intelligence.

One has to remember, in a time of war and stress, one of the concerns was that the country was so shocked by what took place in Hawaii that there was concern over what would be the reaction of the American people. Even though they were found innocent of dereliction of duty, that did not become public information, for the simple reason they wanted to make certain that the American people supported the efforts of this country and more. That was kept secret indefinitely, until 1947, at which time it came out.

But I know the chairman is a fair man. I admire him greatly. I know there are those in the military saying: Well, don't go back and change now. Let history judge. I just think it is unfair to these individuals who did serve with excellence, who did serve with distinction, to be penalized when they were the only two.

Mr. WARNER. But, Senator, what do you say to all of these people—I wish we had a volume here that showed how many Members of Congress participated? Perhaps you can provide that. I do not know how many sat on all the boards that Frank Knox had. I recited all of them here, but I did serve in the Department of Navy as an Under Secretary for 5-plus years.

Mr. ROTH. With great distinction.

Mr. WARNER. I am not so sure, but you are nice to say it. It was a challenge. I was privileged and humbled to do so.

But my point is, a naval court of inquiry, that is usually about 9 or 10 officers certainly for a matter of this importance. All of these investigations involved, I think, at a minimum 10 or 12 people, not to mention all the staffs on both sides. I am sure they had the opportunity for these two officers to make known their own views and to turn over all of the investigations and say that they did not act fairly towards these two men.

Here we are, here in May of 1999, with no new evidence. I do not have the records of all these boards. I suppose somebody has gone through them. And Mr. Brzezinski maybe has.

Could I ask, have you got an estimate of how many persons were involved in all these boards which rendered a judgment that these two men must be held accountable for this tragedy at Pearl Harbor? Does anyone have an estimate of how many Members of Congress?

Mr. ROTH. I think the point is that in these investigations, the purpose of them was not to determine who was accountable but, rather, it was a statement of fact. But, again, let me underscore. You keep coming back and saying: Why should we be looking at it today?

I think that is what makes this country different. If there is a wrong, an error, it is never too late to correct it.

Here we have a case where these individuals were found not to be solely responsible for the attack on Pearl Harbor. As a matter of fact, there were findings in agreement that many in Washington played a key role. Most persuasive to me is the fact that the intelligence they needed to address the attack was not made available to them, yet they are the ones who were denied promotion. The only two.

Mr. WARNER. But you don't know that. I don't know that. There is no record before us to show that these were the only two men who were treated unfairly. You come back to that.

Mr. ROTH. We do know——

Mr. WARNER. I reject that argument.

Mr. ROTH. You reject the argument, but you give me no names. Who else was involved? These are the two who many distinguished former officers of the service, of the Navy, of the Army, the Veterans of Foreign Wars, find this is unfairly treating these individuals. I am merely trying to correct a wrong. I recognize different people—I think we are both fair minded, to be honest. We just happen to disagree.

Mr. WARNER. All right. You want to correct. On what basis do you correct other than the palpitations of your heart?

Mr. ROTH. Because of the fact that—

Mr. WARNER. Where is the evidence?

Mr. ROTH. There were findings that these individuals did not have the intelligence to which they were entitled. In Washington, it was known that war was imminent. If you had the full information, it was fairly clear that there could be an attack on Pearl Harbor. There was a so-called bomb, 14-part message, all of which indicated that attack was an immediate threat.

That information was denied the two individuals with the key critical responsibility in Hawaii. I just think that to hold them responsible and not to give them the lifetime is unfair.

Mr. WARNER. If I could again refer to the Dorn Report:

> The failure of Kimmel and Short to make adequate preparations in light of the information they did have.

That was a major finding.

> They knew their primary mission, arguable their only mission, was to prepare for war.
>
> They knew that war with Japan was highly likely.
>
> They knew that a surprise attack probably would precede a declaration of war.
>
> They knew Japan, not the US, would strike the first blow.
>
> They knew the initial Japanese attack would fall on Pearl Harbor.
>
> They knew that an attack on Pearl Harbor could come from aircraft carriers.
>
> They knew from their own staffs of the danger of a surprise air attack.
>
> They knew from recent events that the idea of a carrier air attack on Pearl Harbor was not new.
>
> They made statements prior to December 7 that acknowledged the possibility of an air attack on their forces.

Now, that was the finding of the Dorn group here just in 1995. I have it here, some numerous pages of this report.

Mr. ROTH. Let me make—I do not want to interrupt.

Mr. WARNER. No. Please go ahead.

Mr. ROTH. Let me point out those findings were general findings. But the fact is, the up-to-date intelligence that Washington had in the days immediately before Pearl Harbor was not made available to General Short or Admiral Kimmel.

Mr. WARNER. Mr. President, that sum portion of intelligence, I think that all throughout history has been conceded. And these tribunals, particularly the Congress, had that before it. It is for that reason maybe they were not court-martialed and incarcerated, if found guilty.

Mr. ROTH. Yes, you knew an air carrier attack was possible. But to know, for example, as they knew in Washington in the days right before the attack that the Japanese wanted to know where the warships were located, it was this kind of information that gave immediacy to the threat. To me, that was critical.

You talk about the Dorn Report. Let me just say, as part of the Dorn Report, they sort of are all over the map in their finding. They say:

> It is clear today, as should have been clear since 1946 to any serious reader of the JCC hearing record, that Admiral Kimmel and General Short were not solely responsible for the defeat at Pearl Harbor.
>
> * * * * *
>
> * * * more information was available in Washington but not forwarded to them. Army and Navy officials in Washington were privy to intercepted Japanese diplomatic

communications (notably the ''bomb plot'', ''winds'', ''pilot'', and ''fourteen-part'' messages) which provided crucial—

Now, this is the Dorn report—

which provided crucial confirmation of the imminence of war. Read together and with the leisure, focus, and clarity of hindsight, these messages point strongly towards an attack on Pearl Harbor at dawn on the 7th.

That is the Dorn Report:

The immediacy of an attack on Pearl Harbor at dawn on the 7th.

The evidence of the handling of these messages in Washington reveals some ineptitude, some unwarranted assumptions and misstatements, limited coordination, ambiguous language and lack of clarification and followup at higher levels.

I could go on.

A careful reading of the proceedings and reports of those panels suggests clear recognition of the faults at all levels. Yet these two gentlemen were singled out and were not given advance to their wartime rating.

I think it was inequitable. I think it was not fair, and it seems to me the greatness of this country is that we can go back and make changes where warranted.

Mr. WARNER. Mr. President, I have just located, I think, a document that interests me a great deal. It is entitled, ''Investigation of the Pearl Harbor Attack: Report of the Joint Committee on the Investigation of the Pearl Harbor Attack,'' pursuant to a resolution of Congress, S. Res. 27. And it was reported on July 5, 1946.

Just listen to those Senators who were on this commission: Alben Barkley, you remember him. What an extraordinary man; Walter George, George was considered one of the great, great internationalists; Scott Lucas of Illinois, one of the most senior Senators from the State of Illinois, the Presiding Officer's State; Owen Brewster from Maine; Homer Ferguson from Michigan.

I say to my good friend, those names still reverberate with absolute distinction and credibility in this Chamber today. They made the findings which left history intact. And we here, just the two of us, really, on the floor tonight, are to urge our colleagues tomorrow to reverse that history?

With all due respect, there is not the foundation, in my judgment, for the Senate to so act and overrule the findings of these men.

Mr. ROTH. Mr. President, as the Senator knows, I have the greatest respect for his soundness of judgment, for his honesty and integrity. I have the same for the Senators named. But the fact remains, honorable men and women often disagree. Here we do disagree.

I am just trying to join my colleagues—there are 23 of us —in seeking to correct what we think was unfair treatment to two individuals who devoted a lifetime of service to this country. Yes, there are differences of opinion on this matter, but nothing seems to me more important than to try to correct a record which I think, on the basis of the studies I have seen, results in unfairness. We are trying to correct that.

I understand you disagree with the basis of our proposal, but I think both of us want the same thing, and that is fairness.

Mr. WARNER. Mr. President, there is no one in this body for whom I have greater respect than my dear friend and colleague, Senator ROTH. He has put a lot of work, together with his able staff, into this case. But it seems to me that we stand in a momentous hour in the history of this country. We are asking our colleagues to trust in our own judgments and our findings as to whether or not one of the most remarkable and tragic chapters in the history of this Nation, in effect, should have this significant reversal these many years hence, based on no new evidence, based on the fervent plea of my colleagues, Senator ROTH and Senator THURMOND.

I shall take the floor tomorrow and most vigorously oppose this. I think for the night we have pretty well concluded this debate. I have to tell the Senator, it is an interesting one for me and not altogether without some implications in my own life, thinking back in that period of history. I will never forget Pearl Harbor.

If I could just reminisce for a moment, it is hard to believe that shortly thereafter this city, the Nation's Capital, endured periods of blackout. I remember it very well, as a small—well, I wasn't so small. I remember my father was a physician and he was able to drive at night only with a slit on the headlights to get to the hospital. I remember very well our home was equipped with blackout curtains. All the streetlights went out. We were fearful of an attack here in Washington, DC, and, indeed, other east coast cities. There were Nazi submarines patrolling off the east coast of the United States, sinking ships.

How well I recall on the beaches of Virginia there was washed up debris from sunken ships. The people on the west coast lived in constant fear that there would be an invasion. These were serious and strenuous times, calling on the men and women of the Armed Forces for a duty and a commitment and an assumption of risk without parallel, because this Nation in many respects was unprepared. How well we recall the pictures of the Army practicing maneuvers with broomsticks rather than rifles.

When I think of the tragic death, loss of life and property, indeed, if we were to follow your logic—President Roosevelt had that intelligence—we could go back and judge the record of many others. It seems to me that what is before the Senate tonight is clear facts that men and women of clear conscience, with the ability to assess fresh information, have painstakingly gone through it, reached their conclusion year after year, and then a President, Harry Truman, is my recollection, am I correct, made the decision that he did with respect to these two officers.

I just do not believe that the Senate at this time should reverse that history.

MORNING BUSINESS

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business with Senators permitted to speak 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 Friday, May 21, 1999, the federal debt stood at $5,596,857,521,196.34 (Five trillion, five hundred ninety-six billion, eight hundred fifty-seven million, five hundred twenty-one thousand, one hundred ninety-six dollars and thirty-four cents).

One year ago, May 21, 1998, the federal debt stood at $5,503,780,000,000 (Five trillion, five hundred three billion, seven hundred eighty million).

Fifteen years ago, May 21, 1984, the federal debt stood at $1,485,189,000,000 (One trillion, four hundred eighty-five billion, one hundred eighty-nine million).

Twenty-five years ago, May 21, 1974, the federal debt stood at $470,357,000,000 (Four hundred seventy billion, three hundred fifty-seven million) which reflects a debt increase of more than $5 trillion—$5,126,500,521,196.34 (Five trillion, one hundred twenty-six billion, five hundred million, five hundred twenty-one thousand, one hundred ninety-six dollars and thirty-four cents) during the past 25 years.

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 a withdrawal and sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF PROPOSED LEGISLATION ''EDUCATIONAL EXCELLENCE FOR ALL CHILDREN ACT OF 1999''—MESSAGE FROM THE PRESIDENT RECEIVED DURING ADJOURNMENT—PM 30

Under the authority of the order of the Senate of January 6, 1999, the Secretary of the Senate on May 21, 1999, during the adjournment of the Senate, received the following message from the President of the United States, together with an accompanying report;

which was referred to the Committee on Health, Education, Labor, and Pensions.

To the Congress of the United States:

I am pleased to transmit for your immediate consideration the ''Educational Excellence for All Children Act of 1999,'' my Administration's proposal for reauthorization of the Elementary and Secondary Education Act of 1965 (ESEA) and other elementary and secondary education programs.

My proposal builds on the positive trends achieved under current law. The ''Improving America's Schools Act of 1994,'' which reauthorized the ESEA 5 years ago, and the ''Goals 2000: Educate America Act'' gave States and school districts a framework for integrating Federal resources in support of State and local reforms based on high academic standards. In response, 48 States, the District of Columbia, and Puerto Rico have adopted State-level standards. Recent results of the National Assessment of Educational Progress (NAEP) show improved performance for the economically disadvantaged and other at-risk students who are the primary focus of ESEA programs. NAEP reading scores for 9-year-olds in high-poverty schools have improved significantly since 1992, while mathematics achievement has also increased nationally. Students in high-poverty schools and the lowest-performing students—the specific target populations for the ESEA Title I program—have registered gains in both reading and math achievement.

I am encouraged by these positive trends, but educational results for many children remain far below what they should be. My proposal to reauthorize the ESEA is based on four themes reflecting lessons from research and the experience of implementing the 1994 Act.

First, we would continue to focus on high academic standards for all children. The underlying purpose of every program within the ESEA is to help all children reach challenging State and local academic standards. States have largely completed the first stage of standards-based reform by developing content standards for all children. My bill would support the next stage of reform by helping States, school districts, schools, and teachers use these standards to guide classroom instruction and assessment.

My proposal for reauthorizing Title I, for example, would require States to hold school districts and schools accountable for student performance against State standards, including helping the lowest-performing students continually to improve. The bill also would continue to target Federal elementary and secondary education resources on those students furthest from meeting State and local standards, with a particular emphasis on narrowing the gap in achievement between disadvantaged students and their more affluent peers. In this regard, my proposal would phase in equal treatment of Puerto Rico in ESEA funding formulas, so that poor children in Puerto Rico are treated similarly to those in the rest of the country for the purpose of formula allocations.

Second, my proposal responds to research showing that while qualified teachers are critical to improving student achievement, far too many teachers are not prepared to teach to high standards. Teacher quality is a particular problem in high-poverty schools, and the problem is often exacerbated by the use of paraprofessionals in instructional roles.

My bill addresses teacher quality by holding States accountable for stronger enforcement of their own certification and licensure requirements, while at the same time providing substantial support for State and local professional development efforts. The Teaching to High Standards initiative in Title II would help move challenging educational standards into every classroom by providing teachers with sustained and intensive high-quality professional development in core academic subjects, supporting new teachers during their first 3 years in the classroom, and ensuring that all teachers are proficient in relevant content knowledge and teaching skills.

The Technology for Education initiative under Title III would expand the availability of educational technology as a tool to help teachers implement high standards in the classroom, particularly in high-poverty schools. My bill also would extend, over the next 7 years, the Class-Size Reduction initiative, which aims to reduce class sizes in the early grades by helping districts to hire and train 100,000 teachers. And the Title VII Bilingual Education proposal would help ensure that all teachers are well trained to teach students with limited English proficiency, who are found in more and more classrooms with each passing year.

Third, my bill would increase support for safe, healthy, disciplined, and drug-free learning environments where all children feel connected, motivated, and challenged to learn and where parents are welcomed and involved. The recent tragedy at Columbine High School in Littleton, Colorado, reminds us that we must be ever vigilant against the risks of violence and other dangerous behaviors in our schools. Our reauthorization bill includes several measures to help mitigate these risks.

We would strengthen the Safe and Drug-Free Schools and Communities Act by concentrating funds on districts with the greatest need for drug- and violence-prevention programs, and by emphasizing the use of research-based programs of proven effectiveness. Moreover, with respect to students who bring weapons to school, this proposal would require schools to refer such students to a mental health professional for assessment and require counseling for those who pose an imminent threat to themselves or others; allow funding for programs that educate students about the risks associated with guns; expand character education programs; and promote alternative schools and second chance programs. A new School Emergency Response to Violence program would provide rapid assistance to school districts that have experienced violence or other trauma that disrupts the learning environment.

My High School Reform initiative would support innovative reforms to improve student achievement in high schools, such as expanding the connections between adults and students that are necessary for effective learning and healthy personal development. This new initiative would provide resources to help transform 5,000 high schools into places where students receive individual attention, are motivated to learn, are provided with challenging courses, and are encouraged to develop and pursue long-term educational and career goals.

Fourth, in response to clear evidence that standards-based reforms work best when States have strong accountability systems in place, my proposal would encourage each State to establish a single, rigorous accountability system for all schools. The bill also would require States to end social promotion and traditional retention practices; phase out the use of teachers with emergency certificates and the practice of assigning teachers ''out-of-field;'' and implement sound discipline policies in every school. Finally, the bill would give parents an important new accountability tool by requiring State, district, and school-level report cards that will help them evaluate the quality of the schools their children attend.

Based on high standards for all students, high-quality professional development for teachers, safe and disciplined learning environments, and accountability to parents and taxpayers, the Educational Excellence for All Children Act of 1999 provides a solid foundation for raising student achievement and narrowing the achievement gap between disadvantaged students and their more advantaged peers. More important, it will help prepare all of our children, and thus the Nation, for the challenges of the 21st century. I urge the Congress to take prompt and favorable action on this proposal.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 21, 1999*.

NOTICE ON AMENDED MINES PROTOCOL—MESSAGE FROM THE PRESIDENT—PM 31

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States; which was referred to the Committee on Foreign Relations.

To the Senate of the United States:

I am gratified that the United States Senate has given its advice and consent to the ratification of the Amended Mines Protocol of the Convention on Conventional Weapons.

The Senate and my Administration, working together, reached agreement on a detailed resolution of advice and consent to ratification, including 13 conditions covering issues of significant interest and concern. I will implement these provisions. I will, of course, do so without prejudice to my Constitutional authorities. A condition in a resolution of advice and consent to ratification cannot alter the allocation of authority and responsibility under the Constitution, for both the Congress and the President.

I am grateful to Majority Leader Lott, Minority Leader Daschle, and Senators Helms, Biden, Leahy, and the many others who have assisted in this ratification effort. It is clear that the practical result of our work together on the Protocol will well serve the critical humanitarian interest of protecting civilians from the dangers posed to them by landmines, as well as the imperative requirements of ensuring the safety and effectiveness of U.S. military forces. In this spirit, I express my hope that the Protocol will lead to further sound advances in the development of the international law of armed conflict.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 24, 1999*.

NOTICE ON AMENDED PROTOCOL ON PROHIBITIONS OR RESTRICTIONS ON THE USE OF MINES, BOOBY-TRAPS AND OTHER DEVICES, TOGETHER WITH ITS TECHNICAL ANNEX—MESSAGE FROM THE PRESIDENT—PM 32

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States; which was referred to the Committee on Foreign Relations.

To the Congress of the United States:

In accordance with the resolution of advice and consent to ratification of the Amended Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices, together with its Technical Annex, adopted by the Senate of the United States on May 20, 1999, I hereby certify that:

In connection with Condition (1)(B), Pursuit Deterrent Munition, the Pursuit Deterrent Munition shall continue to remain available for use by the United States Armed Forces at least until January 1, 2003, unless an effective alternative to the munition becomes available.

In connection with Condition (6), Land Mine Alternatives, in pursuing alternatives to United States anti-personnel mines or mixed anti-tank systems, I will not limit the types of alternatives to be considered on the basis of any criteria other than those specified in the sentence that follows. In pursuit of alternatives to United States anti-personnel mines, or mixed anti-tank systems, the United States shall seek to identify, adapt, modify, or otherwise develop only those technologies that (i) are intended to provide military effectiveness equivalent to that provided by the relevant anti-personnel mine, or mixed anti-tank system; and (ii) would be affordable.

In connection with Condition (7), Certification with Regard to International Tribunals, with respect to the Amended Mines Protocol, the Convention on Conventional Weapons, or any future protocol or amendment thereto, the United States shall not recognize the jurisdiction of any international tribunal over the United States or any of its citizens.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 24, 1999*.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–3149. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report entitled ''Effectiveness of Occupant Protection Systems and Their Use'' dated April 1999; to the Committee on Commerce, Science, and Transportation.

EC–3150. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class C Airspace and Revocation of Class D Airspace, Austin-Bergstrom International Airport, TX; and Revocation of Robert Mueller Municipal Airport Class C; Delay of Effective Date; Docket No. 97–AWA–4/4–30 (5–3)'' (RIN2120–AA66) (1999–0170), received May 3, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3151. A communication from the Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Port of New York/New Jersey Fleet Week (CGD001–98–170)'' (RIN2115–AA97) (1999–0017), received May 10, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3152. A communication from the Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of ten rules relative to Regatta Regulations (RIN2115–AE46) (1999–0009), received April 9, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3153. A communication from the Aeronautical Information Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (30); Amdt. No. 1929'' (RIN2120–AA65), received May 4, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3154. A communication from the Aeronautical Information Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (82); Amdt. No. 1928'' (RIN2120–AA65), received May 4, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3155. A communication from the Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; 1999 Management Measures'' (RIN0648–AK21), received May 12, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3156. A communication from the Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Interim Rule to Certify Jones-Davis and Gulf Fisheye Bycatch Reduction Devices Under Amendment 9 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico'' (RIN0648–AL14), received April, 26, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3157. A communication from the Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Final Rule to Implement Framework Adjustment 28'' (RIN0648–AM10), received April 2, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3158. A communication from the Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Magnuson-Stevens Act Provisions; Financial Disclosure'' (RIN0648–AG16), received May 6, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3159. A communication from the Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Western Alaska Community Development Quota Program'' (RIN0648–AL21), received April 26, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3160. A communication from the Acting Director, National Marine Fisheries Service, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Processors Using Trawl Gear in the Bering Sea and Aleutian Islands'', received May 6, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3161. A communication from the Acting Director, National Marine Fisheries Service, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Trip Limit Adjustments'', received May 3, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3162. A communication from the Principal Deputy, Acquisition and Technology, Office of the Under Secretary of Defense, transmitting Selected Acquisition Reports (SARs) for the quarter ending December 31, 1998; to the Committee on Armed Services.

EC–3163. A communication from the Acting Director, National Marine Fisheries Service, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Species in the Rock sole/Flathead sole/'Other

flatfish' Fishery Category by Vessels Using Trawl Gear in Bering Sea and Aleutian Islands Management Area'', received April 30, 1999; to the Committee on Commerce, Science and Transportation.

EC–3164. A communication from the Acting Director, National Marine Fisheries Service, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod in the Gulf of Alaska'', received April 29, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3165. A communication from the Acting Director, National Marine Fisheries Service, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod in the Western Regulatory Area in the Gulf of Alaska'', received April 19, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3166. A communication from the Acting Director, National Marine Fisheries Service, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Adjustments From Cape Falcon, OR to Point Pitas, CA'', received April 12, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3167. A communication from the Acting Director, National Marine Fisheries Service, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Northeastern United States—Announcement That the Scup Commercial Quota Has Been Harvested for the Winter I Period'', received April 22, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3168. A communication from the Acting Director, National Marine Fisheries Service, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel in the Central Aleutian District of the Bering Sea and Aleutian Islands'', received April 22, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3169. A communication from the Acting Director, National Marine Fisheries Service, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Shallow-water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska'', received April 22, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3170. A communication from the Acting Director, National Marine Fisheries Service, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel; in the Central Aleutian District of the Bering Sea and Aleutian Islands'', received April 22, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3171. A communication from the Acting Director, National Marine Fisheries Service, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod in the Gulf of Alaska'', received April 22, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3172. A communication from the Acting Director, National Marine Fisheries Service, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod for Vessels Using Hook-and-Line and Pot Gear in the Bering Sea and Aleutian Islands'', received April 22, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3173. A communication from the Attorney Advisor, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Bumper Safety Standards'' (RIN2127–AH59), received April 6, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3174. A communication from the Attorney Advisor, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Light Truck Fuel Economy Standards for Model Year 2001'' (RIN2127–AH52), received April 6, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3175. A communication from the Attorney Advisor, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Procedures for Participation in and Receiving Data from the National Driver Register Problem Driver Pointer System'' (RIN2127–AH54), received April 15, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3176. A communication from the Attorney Advisor, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Test Device Placement'' (RIN2127–AF40), received April 22, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3177. A communication from the Chief, Policy and Program Planning Division, Common Carrier Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Implementation of the Local Competition Provisions in the Telecommunication Act of 1996'' (CC Docket No. 96–98; 3rd Order on Reconsideration and Further NPRM), received May 14, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3178. A communication from the Chief, Policy and Program Planning Division, Common Carrier Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Policy and Rules Concerning the Interstate, Interexchange Market Place Implementation of Section 254(g) of the Communications Act of 1934, as amended'' (CC Docket No. 96–61), received April 22, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3179. A communication from the Chief, Policy and Program Planning Division, Common Carrier Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Deployment of Wireline Services Offering Advanced Telecommunications Capability, First Report and Order and Further Notice of Proposed Rulemaking'' (FCC 99–48), received April 27, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3180. A communication from the Chief, Policy and Program Planning Division, Common Carrier Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Computer III Further Remand Proceedings: Bell Operating Company Provision of Enhanced Services'' (CC Docket No. 95–20), received April 14, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3181. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Notice 99–22: Low-Income Housing Tax Credit—1999 Possessions Population Figures'' (OGI–121622–98), received May 10, 1999; to the Committee on Finance.

EC–3182. A communication from the Administrator, Energy Information Administration, Department of Energy, transmitting a report entitled ''Analysis of the Climate Change Technology Initiative'', dated April 1999; to the Committee on Finance.

EC–3183. A communication from the General Counsel, Federal Emergency Management Agency, transmitting, a draft of proposed legislation to exempt disaster employees from filing Virgin Island income tax forms; to the Committee on Finance.

EC–3184. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a certification of a proposed Manufacturing License Agreement with Poland; to the Committee on Foreign Relations.

EC–3185. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a certification of a proposed Manufacturing License Agreement with Turkey; to the Committee on Foreign Relations.

EC–3186. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a certification of a proposed Manufacturing License Agreement with Norway; to the Committee on Foreign Relations.

EC–3187. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a certification of a proposed export license with the United Kingdom; to the Committee on Foreign Relations.

EC–3188. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a list of countries not cooperating with U.S. antiterrorism efforts; to the Committee on Foreign Relations.

EC–3189. A communication from the President, Inter-American Foundation, transmitting, a draft of proposed legislation amending the Foreign Assistance Act of 1969; to the Committee on Foreign Relations.

EC–3190. A communication from the Director, Administration and Management, Office of the Secretary of Defense, transmitting, pursuant to law, a report relative to two vacancies in the Department of Defense; to the Committee on Armed Services.

EC–3191. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, an annual report relative to the Panama Canal Treaty of 1997; to the Committee on Armed Services.

EC–3192. A communication from the Deputy Director of Central Intelligence for Community Management and the Senior Civilian Official, OASD(C3I), Department of Defense, transmitting jointly, pursuant to law, a report relative to Year 2000 compliance; to the Committee on Armed Services.

EC–3193. A communication from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Milk in Iowa Marketing Area; Revision of Rule, DA–99–02'', received May 18, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3194. A communication from the Secretary of Labor, transmitting, pursuant to law, a report relative to the Uniformed Services Employment and Reemployment Rights Act; to the Committee on Veterans' Affairs.

EC–3195. A communication from the Director, Office of Regulations Management, Veterans Benefits Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled ''Schedule for Rating Disabilities; Diseases of the Ear and other Sense Organs'' (RIN2900–AF22), received May 12, 1999; to the Committee on Veterans' Affairs.

EC–3196. A communication from the Administrator, Energy Information Administration, Department of Energy, transmitting, pursuant to law, the annual report for calendar year 1998; to the Committee on Energy and Natural Resources.

EC–3197. A communication from the Administrator, Energy Information Administration, Department of Energy, transmitting, pursuant to law, a report entitled ''Uranium Industry Annual 1998''; to the Committee on Energy and Natural Resources.

EC–3198. A communication from the Assistant General Counsel for Regulatory Law, Office of Safeguards and Security, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''Manual for Nuclear Materials Management and Safeguards System Reporting and Data Management'' (DOE M 447.1–2), received May 12, 1999; to the Committee on Energy and Natural Resources.

EC–3199. A communication from the Acting Assistant General Counsel for Regulatory Law, Office of Field Management, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''Establishing and Maintaining a Facility Representative Program at DOE Facilities'' (DOE STD 1063–97), received May 12, 1999; to the Committee on Energy and Natural Resources.

EC–3200. A communication from the Acting Assistant General Counsel for Regulatory Law, Office of Environment, Safety and Health, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''Integration of Environment, Safety and Health into Facility Disposition Activities'' (DOE STD 1120–98), received May 12, 1999; to the Committee on Energy and Natural Resources.

EC–3201. A communication from the Governor, Commonwealth of the Northern Mariana Islands, transmitting a report relative to the Federal-CNMI Initiative on Labor Immigration, and Law Enforcement, dated April 1999; to the Committee on Energy and Natural Resources.

EC–3202. A communication from the Chairman, Federal Energy Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Complaint Procedures'' (Docket No. RM98–13–000), received May 17, 1999; to the Committee on Energy and Natural Resources.

EC–3203. A communication from the Acting Assistant Secretary, Land and Minerals Management, Department of the Interior, transmitting, a report entitled ''Oil and Gas Leasing Program Evaluation Report'', dated October 1998; to the Committee on Energy and Natural Resources.

EC–3204. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''West Virginia Regulatory Program'' (SPATS No. WV–077–FOR), received May 10, 1999; to the Committee on Energy and Natural Resources.

EC–3205. A communication from the Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled ''Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing Benefits'', received May 12, 1999; to the Committee on Health, Education, Labor, and Pensions.

EC–3206. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers'', received May 11, 1999; to the Committee on Health, Education, Labor, and Pensions.

EC–3207. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Listing of Color Additives for Coloring Sutures; {Phtalocyaninato (2–)} Copper'', received May 5, 1999; to the Committee on Health, Education, Labor, and Pensions.

EC–3208. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Indirect Food Additives: Adjuvant, Production Aids, and Sanitizers'', received May 14, 1999; to the Committee on Health, Education, Labor, and Pensions.

EC–3209. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Indirect Food Additives: Adjuvant, Production Aids, and Sanitizers'', received May 18, 1999; to the Committee on Health, Education, Labor, and Pensions.

EC–3210. A communication from the Secretary of Health and Human Services, transmitting, a draft of proposed legislation entitled ''Children's Hospitals Graduate Medical Education Act of 1999''; to the Committee on Health, Education, Labor, and Pensions.

EC–3211. A communication from the Secretary of Health and Human Services, transmitting, a draft of proposed legislation entitled ''FDA Review Fee Act of 1999''; to the Committee on Health, Education, Labor, and Pensions.

EC–3212. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to the National Health Service Corps; to the Committee on Health, Education, Labor, and Pensions.

EC–3213. A communication from the Secretary of Education, transmitting, pursuant to law, a report relative to the Higher Education Act of 1965; to the Committee on Health, Education, Labor, and Pensions.

EC–3214. A communication from the Director, National Science Foundation, transmitting, pursuant to law, a report entitled ''Women, Minorities, and Persons with Disabilities in Science and Engineering: 1998''; to the Committee on Health, Education, Labor, and Pensions.

EC–3215. A communication from the Chief Executive Officer, Corporation for National Service, transmitting, pursuant to law, the annual report for calendar year 1998; to the Committee on Health, Education, Labor, and Pensions.

EC–3216. A communication from the Secretary of the Treasury, the Chairman of the Board of Governors of the Federal Reserve, the Chairman of the Securities and Exchange Commission and the Chairperson of the Commodity Futures Trading Commission, transmitting, jointly, a report entitled ''Hedge Funds, Leverage, and the Lessons of Long-Term Capital Management'', dated April 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC–3217. A communication from the President and Chairman, Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to a transaction involving U.S. exports to the Republic of Korea; to the Committee on Banking, Housing, and Urban Affairs.

EC–3218. A communication from the Chairman, National Credit Union Administration, transmitting, pursuant to law, the report of a rule relative to prompt corrective action for federally insured credit unions, received May 11, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC–3219. A communication from the Managing Director, Federal Housing Finance Board, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Affordable Housing Program Regulation'' (RIN3060–AA82), received May 12, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC–3220. A communication from the Managing Director, Federal Housing Finance Board, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Affordable Housing Program Regulation'' (RIN3069–AA73), received May 12, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC–3221. A communication from the Assistant Secretary for Export Administration, Bureau of Export Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Exports to Cuba'' (RIN0694–AB93), received May 11, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC–3222. A communication from the Assistant Secretary for Export Administration, Bureau of Export Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Implementation of the Chemical Weapons Convention; Revisions to the Export Administration Regulations'' (RIN0694–AB67), received May 11, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC–3223. A communication from the Deputy Secretary, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled ''Rulemaking for EDGAR System'' (RIN3235–AH70), received May 17, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC–3224. A communication from the General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled ''List of Communities Eligible for the Sale For Flood Insurance, 64 FR 24957, 05/10/99'' (Docket No. FEMA–7712), received May 18, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC–3225. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled ''Authorization of Solicitations during the Combined Federal Campaign'' (RIN3206–AI53), received May 18, 1999; to the Committee on Governmental Affairs.

EC–3226. A communication from the Legal Advisor, Cable Services Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Report and Order: In the Matter of Cable Act Reform Provisions of the Telecommunications Act of 1996'' (CS Docket No. 98–85, FCC 99–57), received April 27, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3227. A communication from the Legal Advisor, Cable Services Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Report and Order: In the Matter of 1998 Biennial Regulatory Review—Streamlining of Cable Television Services Part 76 Public File and Notice Requirements'' (CS Docket No. 98–132, FCC 99–12), received April 27, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3228. A communication from the Associate Chief, International Bureau, Telecom Division, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Report and Order: In the Matter of 1998 Biennial Regulatory Review, Reform of the International Settlement Policy and Associated Filing Requirements, et al.'' (IB Docket No. 98–148, FCC 99–73), received May 14, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3229. A communication from the Associate Chief, International Bureau, Telecom Division, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them and Examination of Exclusivity and Frequency Assignment Policies of the Land Mobile Services. Second Memorandum Opinion and Order'' (PR Docket No. 99–235, FCC 99–68), received May 14, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3230. A communication from the Regulations Officer, Federal Highway Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Parts and Accessories Necessary for Safe Operation; Lighting Devices, Reflectors, and Electrical Equipment'' (RIN2125–AD27), received April 2, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3231. A communication from the Attorney, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Commercial Space Transportation Licensing Regulations'' (RIN21205–AF99), received April 19, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3232. A communication from the Trial Attorney, Federal Railroad Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Passenger Equipment Safety Standards'' (RIN2130–AA95), received May 13, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3233. A communication from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Notice of Approval of Fishery Management Plan Amendments'' (RIN0648–AL40), received April 26, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3234. A communication from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Atlantic Shark Fisheries; Large Coastal Shark Species; Closure'' (I.D. 031899B), received April 6, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3235. A communication from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Adjustments to the 1999 Summer Flounder Commercial Quota'', received April 16, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3236. A communication from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels using Trawl Gear in the Bering Sea and Aleutian Islands'', received April 16, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3237. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Implementation of the National Invasive Species Act of 1996 (CGD97–068) (USCG–1999–3423)'' (RIN2115–AF55) (1999–0001), received May 13, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3238. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Pepsi Gala Fireworks, New York Harbor, Upper Bay (CGD01–99–048)'' (RIN2115–AA97) (1999–0019), received May 13, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3239. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Santa Barbara Channel, CA (COTP Los Angeles-Long Beach 99–001)'' (RIN2115–AA97) (1999–0015), received April 15, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3240. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Gulf Intracoastal Waterway, LA (CGD–08–99–028)'' (RIN2115–AE47) (1999–0010), received May 13, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3241. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Chemical Testing; Management Information System Reporting Requirements (USCG–1998–4469)'' (RIN2115–AF67), received May 3, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3242. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Waiver application; tank vessel; reduction of gross tonnage (USCG–1999–5451)'', received May 3, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3243. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Regatta Regulations; SLR; Charleston to Bermuda Sailboat Race, Charleston, SC (CGD07–99–024)'' (RIN2115–AE46) (1999–0013), received May 3, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3244. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Regatta Regulations; SLR; City of Augusta, GA (CGD07–98–068)'' (RIN2115–AE46) (1999–0011), received April 19, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3245. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Oil Pollution Act of 1990 (OPA 90) Phase-out Requirements for Single Hull Tank Vessels (USCG–1999–4620)'' (RIN2115–ZZ08), received May 3, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3246. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Vessel Identification System (CGD 89–050)'' (RIN2115–AD35) (1999–0001), received April 15, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3247. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Regulated Navigation Areas; Mississippi River, LA: (CGD 08–97–020)'', (RIN2115–AE84) (1999–0003), received April 15, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3248. A communication from the Rules Administrator, Federal Bureau of Prisons, Department of Justice, transmitting, pursuant to law, the report of a rule entitled ''Visiting: Notification to Visitors'' (RIN1120–AA67), received May 14, 1999; to the Committee on the Judiciary.

EC–3249. A communication from the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, the report of a rule entitled ''Adjustment of Status for Certain Nationals in Haiti'' (RIN1115–AF33) (INS No. 1963–98), received May 13, 1999; to the Committee on the Judiciary.

EC–3250. A communication from the Director, National Legislative Commission, The American Legion, transmitting, pursuant to law, the consolidated financial statements for the calendar years 1997 and 1998; to the Committee on the Judiciary.

EC–3251. A communication from the Acting Assistant Attorney General, Department of Justice, transmitting a draft of proposed legislation entitled ''Chemical Safety Information and Site Security Act of 1999''; to the Committee on the Judiciary.

EC–3252. A communication from the Acting Assistant Attorney General, Department of Justice, transmitting, pursuant to law, the annual report relative to the activities and operations of the Public Integrity Section, Criminal Division for calendar year 1997; to the Committee on the Judiciary.

EC–3253. A communication from the Director, Administrative Office of the United States Courts, transmitting, pursuant to law, two reports entitled ''1998 Activities of the Administrative Office of the United States Courts'' and ''1998 Judicial Business of the United States Courts'' for fiscal year 1998; to the Committee on the Judiciary.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–124. A resolution adopted by the Senate of the General Assembly of the State of Illinois relative to senior citizens; to the Committee on Finance.

SENATE RESOLUTION NO. 70

Whereas, The Balanced Budget Act of 1997 established a new reimbursement system for Medicare home health services effective for cost reporting periods beginning on or after October 1, 1997 which has threatened to ruin the home health benefit; and

Whereas, The Balanced Budget Act of 1997 created an interim payment system which is cost-based with reduced limits and is in effect until a prospective payment system is initiated with cost reporting periods beginning on or after October 1, 2000; and

Whereas, While the 105th Congress made strides to rectify the interim payment system, the real effect of the Omnibus Reconciliation Act of 1998 was to raise the per-

visit reimbursement for home health between only $0.50 and $1.00 and the per-beneficiary limits by less than 5% for the majority of home health agencies; and

Whereas, If the home health program, which is only 9% of the overall Medicare budget, is slashed, other programs will bear the burden, and in many cases Medicare patients will be transferred to the Medicaid program; and

Whereas, If these patients are not served by home health, they will drive up health care costs in other arenas, including nursing homes, hospitals, and emergency care; and

Whereas, One out of every 10 Medicare beneficiaries received some form of home health care in 1996; and

Whereas, On average, a home care visit in 1996 cost between $40 and $140, while the cost of staying in a hospital per day is $2,071, and a skilled nursing facility, $443; and

Whereas, The average home health agency has seen a 39% reduction in Medicare revenue since the implementation of the interim payment system; and

Whereas, Fifty-eight, or 15%, of Illinois home health agencies have closed in the past year; and

Whereas, Rural home health agencies report revenues at least one-third lower than this same period last year; and

Whereas, Three-fourths of Illinois Home Care Council freestanding agency members (those not affiliated with a hospital or network) estimate that, unless something changes with the interim payment system, they will be closed within 6 months to a year; and

Whereas, The interim payment system is based on average costs, which creates strong incentives to avoid caring for patients with complex or long-term medical problems, forcing many Illinois home health agencies to choose between staying in business and serving highly complex, high visit volume patients; and

Whereas, Three prominent public policy research organizations, George Washington University, the Commonwealth Fund, and the Lewin Group, independently concluded that the home health provisions of the Balanced Budget Act of 1997 are causing a crisis in the Medicare home health benefit by: (i) eliminating access to medically necessary home health services for the sickest, most frail Medicare beneficiaries; (ii) rewarding higher cost and penalizing lower cost home health agencies by establishing radically different payment limits that do not reflect current patient mix or efficiency; and (iii) eliminating access to Medicare home health in rural areas; and

Whereas, The prospective payment system is a system by which home health agencies are paid according to types and numbers of patients actually served which assures a predictable reimbursement rate and schedule, beneficial to both the federal government and home health agencies; therefore, be it

Resolved, by the Senate of the Ninety-First General Assembly of the State of Illinois, that we urge Congress to hold the Health Care Financing Authority accountable for the timely implementation of a fair prospective payment system; and be it further

Resolved, That we urge the federal government to rectify some of the damage wrought by the interim payment system by raising the per-beneficiary and per-visit limits, so that agencies can keep serving patients until the prospective payment system is implemented; and be it further

Resolved, That we urge the federal government to eliminate the additional 15% cut in reimbursements scheduled for October 2000; and be it further

Resolved, That we urge Congress to require a representative of the federal government to meet with an Illinois Home Care Council member to discuss the questions and concerns raised by this resolution; and be it further

Resolved, That suitable copies of this resolution be delivered to the President pro tempore of the U.S. Senate, the Speaker of the House of Representatives, and of the other members of the Illinois Congressional delegation.

POM–125. A concurrent resolution adopted by the Legislature of the State of Michigan relative to the regulation of insurance matters by the states; to the Committee on Banking, Housing, and Urban Affairs.

HOUSE CONCURRENT RESOLUTION NO. 26

Whereas, In 1994, the Michigan Legislature passed legislation (HB 5281) granting lending institutions the authority to sell all lines of insurance; and

Whereas, That legislation, which became 1994 PA 409, includes necessary consumer and fair market protections, such as requiring the separation of lending and insurance transactions; prohibitions against offering or discussing insurance while a loan transaction is pending; requiring separate lending and insurance areas; requirements for full written disclosures to customers; and inclusion of strong prohibitions against sharing confidential insurance-related information in bank loan files with bank-affiliated agencies; and

Whereas, In a joint letter published November 7, 1994, HB 5281 was lauded and strongly supported by the Michigan Bankers Association, Michigan Association of Insurance Agents, Michigan League of Savings Institutions, Michigan Association of Life Underwriters, Michigan Chamber of Commerce, Michigan Consumer Federation, Michigan Credit Union League, Small Business Association of Michigan, Michigan Association of Credit Unions, Michigan Retail Hardware Association, Greater Detroit Chamber of Commerce, and National Electrical Contractors Association (Michigan Chapter); and

Whereas, In 1995, the Rhode Island Legislature resoundingly passed legislation substantially similar to Michigan law, granting lending institutions the authority to sell insurance; and

Whereas, The Comptroller of the Currency is an appointed, federal bureaucrat who has a track record of promulgating regulations that serve to expand bank insurance powers. These new insurance activities, deemed to be banking issues by the Comptroller, often conflict with established state laws; and

Whereas, On January 13, 1997, the Office of the Comptroller of the Currency (OCC) issued a request for comments on Rhode Island's Financial Institution Insurance Sales Act to assist in the determination as to whether Section 92 of the Federal Bank Act provided the Comptroller of the Currency sufficient authority to preempt Rhode Island's banks-in-insurance statute; and

Whereas, The McCarran-Ferguson Act of 1945 relegates authority to the individual states for regulation of the insurance activities of all entities; and

Whereas, The preemption of state insurance laws by an unelected federal bureaucrat is in direct conflict with the fifty-four-year tradition of state regulation of insurance under McCarran-Ferguson and thereby raises vitally important questions of states' rights and the primacy of duly elected representatives to enact laws governing insurance activities within their state borders; and

Whereas, In the Eighty-ninth Michigan Legislature, Michigan's Senate Majority and Minority Leaders, Speaker of the House and House Minority Leader, members of the Senate Financial Services Committee, and Majority and Minority Chairs of the House Insurance and Banking Committees all delivered letters to the Comptroller of the Currency forcefully opposing the OCC's desire to preempt Rhode Island's banks-in-insurance statute; and

Whereas, The National Association of Insurance Commissioners (NAIC); National Conference of State Legislators (NCSL); and the National Conference of Insurance Legislators (NCOIL) all submitted letters strongly opposing the Comptroller of the Currency's desire to preempt state insurance law; and

Whereas, In past court disputes between federal banking and state insurance regulators, federal courts have granted ''unequal deference'' to federal regulators, thereby rendering decisions based not on the merits of the case, but on deference to the federal regulator; now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That we memorialize the Congress of the United States to enact legislation to affirm the authority of the states to regulate insurance matters, including preventing the Office of the Comptroller of the Currency from preempting state laws regulating the sale of insurance through lending institutions and ending the practice of federal regulators being able to be granted ''unequal deference'' in litigation between state and federal regulations on insurance matters; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM–126. A joint resolution adopted by the Legislature of the State of Maine relative to a World War II memorial; to the Committee on Energy and Natural Resources.

JOINT RESOLUTION MEMORIALIZING THE PRESIDENT OF THE UNITED STATES AND THE UNITED STATES CONGRESS TO SUPPORT A WORLD WAR II MEMORIAL

We, your Memorialists, the Members of the One Hundred and Nineteenth Legislature of the State of Maine now assembled in the First Regular Session, most respectfully present and petition the President of the United States and the United States Congress, as follows:

Whereas, in 1987, United States Representative Marcy Kaptur, at the suggestion of World War II veteran Roger Durbin, introduced legislation to establish a memorial to honor all who served in the Armed Forces of the United States during World War II and the entire nation's contribution to the war effort. The legislation failed, but the interest in having a memorial gained patriotic support and subsequent legislation prevailed; and

Whereas, federal Public Law 103–32 authorizing a World War II Memorial in the District of Columbia or its environs was signed into law on May 25, 1993; and

Whereas, the Memorial Advisory Board was created to advise the American Battle Monuments Commission in site selection and design and to promote donations to support the memorial construction; and

Whereas, a memorial design by Freidrich St. Florian at the site of the historic Rainbow Pool on the National Mall was approved; and

Whereas, former Senator Bob Dole and Frederick W. Smith, CEO, Federal Express, were named as National Co-chairmen of the World War II Memorial Campaign; and

Whereas, news of the World War II Memorial is currently be spread throughout the

country, to every city, town, church, synagogue, mosque, business, civic group, veterans' organization and every other organization that comprises a part of our American culture; now, therefore, be it

Resolved: That We, your Memorialists, request the President of the United States and the United States Congress to offer support in obtaining the necessary financial resources to help the World War II Memorial take its rightful place in history; and be it further

Resolved: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Honorable William J. Clinton, President of the United States; the President of the United States Senate; the Speaker of the House of Representatives of the United States; each Member of the Maine Congressional Delegation; and the American Legion, Department of Maine.

POM–127. A resolution adopted by the Legislature of the Commonwealth of Guam relative to Federal smuggling interdiction capabilities on Guam; to the Committee on Energy and Natural Resources.

RESOLUTION NO. 85

Whereas, Guam in the last year has become a prime target for a human smuggling operation run by the infamous Chinese criminal organization known as the ''Snakeheads''; and

Whereas, as a result of concerted efforts by organized criminal operations, Guam has been flooded with illegal aliens of this smuggling activity; and

Whereas, six hundred (600) illegal immigrants have been apprehended and detained at the Guam Department of Corrections correctional facility, including four hundred forty-five (445) illegal immigrants currently in detention, to the expense of Guam taxpayers and to the danger of other inmates in an already overpopulated facility; and

Whereas, Guam law enforcement officials estimate that more than two hundred (200) other illegal immigrants have gotten through Guam's borders without detection, and are already in the community at-large; and

Whereas, Guam law enforcement officials estimate that another several thousands illegal immigrants will arrive on Guam in the next few months; and

Whereas, the humans being smuggled often cannot pay the full price of transportation, estimated at Twenty Thousand Dollars to Thirty Thousand Dollars ($20,000.00–$30,000.00), and the immigrants therefore become basically indentured servants; and

Whereas, because of Guam's status under United States immigration laws, the efforts of these criminal organizations are rewarded because the illegal immigrants they transport immediately claim asylum under U.S. law, and are often paroled and allowed to walk free; and

Whereas, the impact of this human smuggling operation on the government of Guam and the local community has been great and is potentially devastating, with costs estimated in the millions, with the mass of illegal immigrants using law enforcement, corrections, hospital, public health and many other local resources, which are already strained by the recent economic slump; and

Whereas, the illegal immigrants who have likely come into Guam's borders unnoticed, and the illegal immigrants who have been apprehended and then paroled and let free in the community are a serious public health hazard, as more than a few have been diagnosed with tuberculosis and other diseases; and

Whereas, neither the United States Immigration and Naturalization Service, nor the United States Coast Guard, currently have sufficient resources stationed on Guam to control the influx of illegal immigrants, resulting in an alarming lack of enforcement of the very laws that have created this emergency situation; now therefore, be it

Resolved, that I MináBente Singko Na Liheslaturan Guåhan (Twenty-Fifth Guam Legislature) does hereby, on behalf of the people of Guam, respectfully request the Federal Government of the United States of America to permanently upgrade the U.S. Coast Guard facility, vessesls and equipment, and properly man these facilities and vessels on Guam to give the Coast Guard the ability to patrol the seas surrounding Guam and detect, intercept and redirect any vessels carrying illegal immigrants; and be it further

Resolved, that I MináBente Singko Na Liheslaturan Guåhan does hereby, on behalf of the people of Guam, respectfully request the Federal Government of the United States of America to apply Six Dollars ($6.00) of the U.S. Immigration departure fee currently collected from each passenger departing the Guam International Air Terminal, as a funding source to support the intent of this resolution; and be it further

Resolved, that I MináBente Singko Na Liheslaturan Guåhan does hereby, on behalf of the people of Guam, respectfully request the President of the United States and his Administration to identify and set a permanent location for the diversion of vessels interdicted in the open sea in a location outside of Guam so that persons shall be repatriated from this alternate location; and be it further

Resolved, that I MináBente Singko Na Liheslaturan Guåhan does hereby, on behalf of the people of Guam, respectfully request the Federal Government of the United States of America to reimburse the government of Guam for all expenses associated with this illegal immigrant operation; and be it further

Resolved, that I MináBente Singko Na Liheslaturan Guåhan does hereby, on behalf of the people of Guam, respectfully request the Congress of the United States of America to pass legislation as soon as possible that would cause Guam to cease to be an area where asylum can be granted under U.S. law; and be it further

Resolved, that I MináBente Singko Na Liheslaturan Guåhan does hereby, on behalf of the people of Guam, respectfully request the United States Congress to pass legislation, if simply removing Guam as an area where asylum can be granted would bring the potential for any litigation, to remove Guam from the Immigration and Nationality Act, from U.S. Immigration and Naturalization Service jurisdiction and from the immigration laws of the United States of America; and be it further

Resolved, that I MináBente Singko Na Liheslaturan Guåhan does hereby, on behalf of the people of Guam, respectfully request the Guam Delegate to the United States House of Representatives to fully support this Resolution in Congress; and be it further

Resolved, That the Speaker certify, and the Legislative Secretary attests to, the adoption hereof and that copies of the same be thereafter transmitted to the President of the United States; to the President of the United States Senate; to the Speaker of the United States House of Representatives; to the Secretary of the United States Department of Justice; to the Guam Congressional Delegate; and to the Honorable Carl T. C. Gutierrez, I MináBente Guåhan (Governor of Guam).

POM–128. A resolution adopted by the Board of Directors of the Puerto Rico Bar Association relative to the death penalty; to the Committee on Energy and Natural Resources.

POM–129. A concurrent resolution adopted by the Legislature of the State of Hawaii relative to the ''Millennium of Peace''; to the Committee on Foreign Relations.

HOUSE CONCURRENT RESOLUTION NO. 208

Whereas, the goal of the coming millennium is to encourage each person on Earth in dedicating the third millennium as the ''Millennium of Peace;'' and

Whereas, the multi-ethnic and multi-cultural population of Hawaii sets an encouraging example for international understanding as all nations and peoples strive to live together in peace and harmony; and

Whereas, the spirit of Aloha is the gift of the Hawaiian people to the world and the profound meaning it has for all of the children on Earth with its message of love; and

Whereas, the President of the United States has admonished the citizens and communities of America to develop and implement millennium projects and celebrations; and

Whereas, the United Nations has dedicated the year 2000 as the Year of World Peace; now, therefore,

Be It Resolved by the House of Representatives of the Twentieth Legislature of the State of Hawaii, Regular Session of 1999, the Senate concurring, that the Legislature joins in and encourages all citizens and governments of the Earth to join with the people of Hawaii in the spirit of Aloha to dedicate the celebrations of the third millennium to peace and understanding as ''The Millennium of Peace'' for all of Earth's children; and

Be It Further Resolved that certified copies of this Concurrent Resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the members of Hawaii's Congressional Delegation, the Governor of the State of Hawaii, and the United States Ambassador to the United Nations.

POM–130. A concurrent resolution adopted by the Legislature of the State of Hawaii relative to the restoration of redress funds to compensate individuals of Japanese ancestry; to the Committee on Appropriations.

SENATE CONCURRENT RESOLUTION NO. 45

Whereas, during World War II, the United States forcibly removed and interned over 120,000 United States citizens and legal permanent residents of Japanese ancestry from their homes and relocated them to government internment camps; and

Whereas, in addition, the United States arranged the deportation of over 2,264 men, women, and children of Japanese ancestry from thirteen Latin American countries to the United States to be interned and used in prisoner of war exchanges with Japan; and

Whereas, in 1988, the United States Congress passed, and President Reagan signed, the Civil Liberties Act of 1988 (the Act), which acknowledged the fundamental injustice of that evacuation, relocation, and internment, and to apologize on behalf of the people of the United States for the wrongs done to United States citizens and legal permanent residents of Japanese ancestry; and

Whereas, that Act further sought to make restitution to those individuals of Japanese ancestry who were interned by authorizing a $20,000 redress payment to each citizen and legal permanent resident of Japanese ancestry who was deprived of liberty or property as a result of government action; and

Whereas, the Act directed the United States Treasury to distribute these payments, to which Congress appropriated

$1,650,000,000 between October 1990 and October 1993; and

Whereas, in a subsequent settlement of a class action suit, the United States agreed to send a letter of apology and to pay a $5,000 redress payment from the same fund to each formerly interned Japanese Latin American; and

Whereas, to fulfill its educational purpose of informing the public about the internment so as to prevent the recurrence of similar events, the Act also created the Civil Liberties Public Education Fund to make disbursements for research and educational activities up to a total of $50,000,000; and

Whereas, Congress specified in the Act that the principal of $1,650,000,000 was to be invested in government obligations and earn interest at an annual rate of at least five per cent; and

Whereas, in 1998, a Japanese Peruvian former internee and the National Coalition for Redress/Reparations filed a class action suit alleging that the Treasury Department breached its fiduciary duty by failing to invest the funds mandated by Congress, and seeking to recover the lost interest which is estimated to be between $50,000,000 and $200,000,000; and

Whereas, while the reparations fund has made payments to approximately eighty-two thousand claimants, there will not be sufficient money in the trust fund established by Congress to pay all of the remaining claims by Japanese Americans and Japanese Latin Americans or to meet the goal of $50,000,000 in educational grants; and

Whereas, a United States Justice Department official has apparently acknowledged that the funds were not invested as originally mandated by Congress, and that the $1,650,000,000 has all been spent, although claims are still pending; and

Whereas, the Legislature finds that while nothing can replace the loss of civil liberties suffered by those who were forced to evacuate their homes and relocate to internment camps on the basis of their ancestry, a formal apology and token redress payment to these individuals of Japanese ancestry is the least that can be done to compensate them for the loss of their rights; now, therefore,

Be It Resolved by the Senate of the Twentieth Legislature of the State of Hawaii, Regular Session of 1999, the House of Representatives concurring, that the United States government is urged to restore redress funds to pay all outstanding Japanese American and Japanese Latin American redress claims and to fulfill the educational mandate of the Act; and

Be It Further Resolved that certified copies of this Concurrent Resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, Hawaii's congressional delegation, and the Governor of Hawaii.

POM–131. A concurrent resolution adopted by Legislature of the State of Iowa relative to the Mississippi River; to the Committee on Appropriations.

HOUSE CONCURRENT RESOLUTION 23

Whereas, barges operating on United States inland waterways are the dominant carriers of United States grains to export port facilities; and

Whereas, the majority of this barge grain traffic traverses the Mississippi River system; and

Whereas, the Upper Mississippi River is the dominate originator of grain barge traffic for export; and

Whereas, 95 percent of the world's population live outside the United States; and

Whereas, economies and populations continue to grow worldwide and these agricultural export markets are essential to the economic future of the Upper Midwest including Iowa; and

Whereas, international markets are very competitive and opportunities can be gained or lost based on very small differences in price; and

Whereas, the United States Army Corps of Engineers projects Upper Mississippi River barge traffic to increase dramatically; and

Whereas, increased barge traffic will continue to place a burden on the river transportation system which is more than 50 years old; and

Whereas, the original design specifications for the locks and dams have been surpassed by modern barge technology resulting in delays because tows must be broken down to move through the locks; and

Whereas, delays are projected to rise as high as several million dollars per year; and

Be It Further Resolved, That the Congress is urged to provide adequate funding for major rehabilitation efforts on the Upper Mississippi River; and

Be It Further Resolved, That copies of this Resolution be sent by the Chief Clerk of the House of Representatives to the President of the United States; the Chief of Engineers, United States Army Corps of Engineers, North Central Division; the United States Secretary of Transportation; the President of the United States Senate; the Speaker of the United States House of Representatives; and the members of Iowa's congressional delegation.

We, Brent Siegrist, Speaker of the House and Mary Kramer, President of the Senate; Elizabeth A. Isaacson, Chief Clerk of the House, and Michael E. Marshall, Secretary of the Senate, hereby certify that the above and foregoing Resolution was adopted by the House of Representatives and the Senate of the Seventy-eighth General Assembly.

POM–132. A resolution adopted by the Senate of the General Assembly of Commonwealth of Pennsylvania relative to moneys earmarked for abandoned mine land reclamation; to the Committee on Appropriations.

SENATE RESOLUTION NO. 33

Whereas, The biggest water pollution problem facing this Commonwealth today is polluted water draining from abandoned coal mines; and

Whereas, Over half the streams that do not meet water quality standards in this Commonwealth are affected by mine drainage; and

Whereas, This Commonwealth has over 250,000 acres of abandoned mine lands, refuse banks and old mine shafts in 45 of Pennsylvania's 67 counties, more than any other state in the nation; and

Whereas, The Department of Environmental Protection estimates it will cost more than $15 billion to reclaim and restore abandoned mine lands; and

Whereas, The Commonwealth now receives about $20 million a year from the Federal Government to do reclamation projects; and

Whereas, There is now a $1 billion balance in the Federal Abandoned Mine Reclamation Trust Fund that is set aside by law to take care of pollution and safety problems caused by old coal mines; and

Whereas, Pennsylvania is the fourth largest coal producing state in the nation, and coal operators contribute significantly to the fund by paying a special fee for each ton of coal they mine; and

Whereas, Pennsylvania is not seeking to rely solely on Federal moneys to address its abandoned mine reclamation needs and has undertaken a comprehensive program designed to maximize reclamation opportunities by increasing community involvement, making better use of existing resources, encouraging private and public participation in reclamation activities and reducing the cost of abandoned mine reclamation projects; and

Whereas, The Department of Environmental Protection and 39 county conservation districts through the Western and Eastern Pennsylvania Coalitions for Abandoned Mine Reclamation have worked as partners to improve the effectiveness of mine reclamation programs; and

Whereas, Pennsylvania has been working with the Interstate Mining Compact Commission, the National Association of Abandoned Mine Land Programs and other states to free more of these funds to clean up abandoned mine lands; and

Whereas, Making more funds available to states for abandoned mine reclamation should preserve the interest revenues now being made available for the United Mine Workers Combined Benefit Fund; and

Whereas, The Federal Office of Surface Mining, the United States Environmental Protection Agency and Congress have not agreed to make more funds available to states for abandoned mine reclamation; therefore be it

Resolved, That the Senate of Pennsylvania urge the President of the United States, and Congress make the $1 billion of Federal moneys already earmarked for abandoned mine land reclamation available to states to clean up and make safe our abandoned mine lands; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, to the presiding officers of each house of Congress and to each member of Congress.

POM–133. A concurrent resolution adopted by the Legislature of the Commonwealth of Puerto Rico relative to military activities in the municipality of Vieques and surrounding waters; to the Committee on Armed Services.

CONCURRENT RESOLUTION NO. 45

STATEMENT OF PURPOSE

In the course of the last one hundred years, the People of Puerto Rico have shown their loyalty to the democratic values of liberty, equality and respect for human rights consecrated by and set forth in the Constitution of the United States of America. The People of Puerto Rico have responded affirmatively and participated in all of the armed conflicts in which our Nation has been forced to take part, from World War I to the Persian Gulf War. In these conflicts, over two thousand (2,000) Puerto Rican fellowmen and women have made the ultimate sacrifice, giving their lives in defense of the ideals of justice, liberty and the principles of democracy. Furthermore, other thousands of other Puerto Ricans have been wounded while participating in these conflicts.

The Preamble of the Constitution of the United States of America provides that it was ordained to "[...] establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare and secure the blessings of liberty to ourselves and our posterity." However, despite the fact that the United States Constitution was established to promote for the general welfare and insure domestic tranquility, the people of the island municipality of Vieques have suffered the direct consequences of military practices, including air, land and naval activities for the last thirty (30) years. Ever since the administration of Governor Roberto Sanchez-Vilella from 1965 to 1969, the Department of Defense has been made aware of the grave problems and ominous consequences to the quality of life, tranquility and the pursuit of happiness of the United States citizens who reside in

the island municipality of Vieques. The Legislature of Puerto Rico believes that the time has come to ensure the people of Vieques the full enjoyment of their unalienable rights to life, liberty and the pursuit of happiness while ensuring common defense of all United States citizens. The People of Puerto Rico are grateful for, appreciate and value the contribution of the armed forces of the United States of America to our collective security, and recognize the vital strategic importance, for our collective defense, of the Navy bases located in Ceiba and Vieques. Nevertheless, and in light of our modern world realities, we request that the courageous men and women of the Navy ensure that the people of Vieques, who have sacrificed so much throughout the years for our national security, achieve full enjoyment of their fundamental rights by ceasing their military exercises and bombing with live ammunition in the territory and surrounding waters of the island municipality of Vieques.

In the case of *Alberto Lozada-Colon* vs. *U.S. Department of State*, docket number 98–5179, filed in the U.S. Court of Appeals for the District of Columbia, the counsels for the U.S. Department of State and the U.S. Department of Justice have argued before the court that the provisions for the organization of a constitutional government in Puerto Rico and the political status adopted as of 1952, in now way altered the political relationship with the United States of America, and that the Island of Puerto Rico continues to be a territory, subject to the plenary powers of the U.S. Congress. Despite this evident colonial status, we are United States citizens and we have the right to enjoy the protection and guarantees that are provided by our U.S. Constitution. Because of this, the U.S. citizens residing in the island of Vieques are covered and protected by the same basic rights as the citizens of any of the fifty (50) states of the American Nation. Upon examining the history of military activity in Vieques, we have to conclude that these have dramatically affected the lives of its people. The constant bombing and other military practices using live ammunition have affected the physical and emotional health of the residents of Vieques.

In the light of these considerations, the Legislature of Puerto Rico believes that it is imperative that the United States Navy cease using live ammunition in its firing and bombing military practices in Vieques. Once again, we reaffirm the need for the residents of Vieques to live in an environment of tranquility and to enjoy the happiness that all Americans aspire; be it

Resolved by the Legislative Assembly of Puerto Rico:

Section 1.—To request that the President, the Congress and the Navy of the United States of America, on behalf and in representation of the People of Puerto Rico, immediately respond to the plea of our people to cease using live ammunition in firing and bombing military practices in the island municipality of Vieques and its surrounding waters.

Section 2.—To request that the President, the Congress, and the Navy of the United States of America, once the firing and bombing military practices mentioned in Section 1 have ceased, deactivate and remove all undetonated explosive artifacts used during its firing and bombing military practices which might reasonably constitute a risk to the inhabitants of Vieques.

Section 3.—This Concurrent Resolution shall be remitted to the Honorable William Jefferson Clinton. President of the United States of America; the Congress of the United States of America, the Vice President of the United States of America, the Chairman of the Joint Chiefs of Staff, the Secretary of the Department of Defense, and the Secretary of the Navy of the United States of America.

Section 4.—This Concurrent Resolution shall take effect immediately after its approval.

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. GRAMS:

S. 1102. A bill to guarantee the right of individuals to receive full social security benefits under title II of the Social Security Act in full with an accurate annual cost-of-living adjustment; to the Committee on Finance.

S. 1103. A bill to reform Social Security by creating personalized retirement accounts, and for other purposes; to the Committee on Finance.

S. 1104. A bill to amend the Social Security Act to provide simplified and accurate information on the social security trust funds, and personal earnings and benefit estimates to eligible individuals; to the Committee on Finance.

By Mr. BAUCUS (for himself, Mr. LAUTENBERG, Mrs. LINCOLN, and Mr. DASCHLE):

S. 1105. A bill to assist local governments and States in assessing and remediating brownfield sites, increase fairness and reduce litigation, and for other purposes; to the Committee on Environment and Public Works.

By Mr. TORRICELLI (for himself and Ms. SNOWE):

S. 1106. A bill to amend the Public Health Service Act and Employee Retirement Income Security Act of 1974 to require that group and individual health insurance coverage and group health plans provide coverage for qualified individuals for bone mass measurement (bone density testing) to prevent fractures associated with osteoporosis; to the Committee on Health, Education, Labor, and Pensions.

By Mr. WARNER:

S. 1107. A bill to reform the conduct of Federal elections; to the Committee on Rules and Administration.

By Mr. COCHRAN (for himself, Mrs. LINCOLN, Mr. COVERDELL, Mr. SESSIONS, Mr. CLELAND, Mr. HOLLINGS, Mr. SHELBY, Mr. ROBB, and Mr. HUTCHINSON):

S. 1108. A bill to amend the Federal Crop Insurance Act to improve crop insurance coverage and administration, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. MCCONNELL (for himself, Mr. SMITH of New Hampshire, Mr. KOHL, Mr. FRIST, Mr. GREGG, Mr. JOHNSON, Mr. WARNER, Mr. CLELAND, Mr. SCHUMER, Mr. ALLARD, Mr. JEFFORDS, Mr. AKAKA, Mrs. FEINSTEIN, Mr. ENZI, Mr. ROBB, Mr. GRAMS, Mrs. BOXER, Mr. LUGAR, Ms. LANDRIEU, Mr. COCHRAN, Mrs. MURRAY, Mr. INHOFE, Mr. MACK, Mr. TORRICELLI, Mr. BINGAMAN, Mr. THOMAS, Mr. LEAHY, Mr. CAMPBELL, Mr. KENNEDY, Mr. HELMS, Mr. DURBIN, Mr. SANTORUM, Mr. LAUTENBERG, Mr. BUNNING, Mr. MOYNIHAN, Mr. KERRY, Mr. WYDEN, Mr. GRAHAM, Mr. REID, Mr. LEVIN, and Mr. LIEBERMAN):

S. 1109. A bill to conserve global bear populations by prohibiting the importance, exportation, and interstate trade of bear viscera and items, products, or substances containing, or labeled or advertised as containing, bear viscera, and for other purposes; to the Committee on Environment and Public Works.

By Mr. LOTT:

S. 1110. A bill to amend the Public Health Service Act to establish the National Institute of Biomedical Imaging and Engineering; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BOND:

S. 1111. A bill to provide continuing authorization for a National Conference on Small Business, and for other purposes; to the Committee on Small Business.

By Mrs. BOXER (for herself and Mr. LAUTENBERG):

S. 1112. A bill to protect children and other vulnerable subpopulations from exposure to environmental pollutants, to protect children from exposure to pesticides in schools, and to provide parents with information concerning toxic chemicals that pose risks to children, and for other purposes; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DORGAN (for himself, Mrs. FEINSTEIN, and Mr. SPECTER):

S. Res. 105. A resolution expressing the sense of the Senate relating to consideration of Slobodan Milosevic as a war criminal; to the Committee on Foreign Relations.

By Mr. DOMENICI (for himself, Mr. KENNEDY, Mr. MCCAIN, Mr. HATCH, Mrs. HUTCHISON, Mr. DEWINE, Mr. CHAFEE, Mr. LUGAR, Mr. ABRAHAM, Mr. SANTORUM, and Mr. WARNER):

S. Res. 106. A resolution to express the sense of the Senate regarding English plus other languages; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SMITH of New Hampshire:

S. Res. 107. A resolution to establish a Select Committee on Chinese Espionage; to the Committee on Rules and Administration.

By Ms. LANDRIEU (for herself and Mr. SPECTER):

S. Con. Res. 33. A concurrent resolution expressing the sense of Congress regarding the need for vigorous prosecution of war crimes, genocide, and crimes against humanity in the former Republic of Yugoslavia; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRAMS:

S. 1102. A bill to guarantee the right of individuals to receive full social security benefits under title II of the Social Security Act in full with an accurate annual cost-of-living adjustment; to the Committee on Finance.

SOCIAL SECURITY BENEFITS GUARANTEE ACT OF 1999

S. 1103. A bill to reform Social Security by creating personalized retirement accounts, and for other purposes; to the Committee on Finance.

PERSONAL SECURITY AND WEALTH IN RETIREMENT ACT OF 1999

S. 1104. A bill to amend the Social Security Act to provide simplified and accurate information on the social security trust funds, and personal earnings

and benefit estimates to eligible individuals; to the Committee on Finance.

SOCIAL SECURITY INFORMATION ACT OF 1999

Mr. GRAMS. Mr. President, I want to take a little time this morning to talk about Social Security. I know our Nation has been engaged in Social Security reform discussions for about 2 years now kind of formally. But, informally, many have been talking about what we are going to do to ensure a safe, sound Social Security system in the future.

We all expected that we could work in a bipartisan manner during this Congress to be able to complete the immense task of saving and strengthening Social Security for the American people.

Unfortunately, President Clinton has failed to take leadership on this issue and has failed to present an honest plan to this Congress to address Social Security's rapid approaching crisis.

There is widespread reluctance to move forward on reform due to political considerations. Yet, if we keep delaying essential reform until after the ''next election''—it is always after the next election—we will never be able to complete our goal of ensuring retirement security for future generations of Americans.

Now, on the positive side, the debate has surely raised the public's awareness of their own retirement security shortcomings. It has brought attention to the Social Security crisis and has led to a variety of solutions to fix the system.

I believe this is a healthy debate, one that we must continue to encourage. I am sure that when our elected officials muster the political will to make some of those hard choices we face, the Nation will be ready to support those choices.

Regardless of when we actually consider Social Security reform, we must continue the job of educating Americans about the importance of savings and retirement planning. We must continue to debate the role of future Social Security benefits in our retirement security decisions.

That is why I am here. I rise today to introduce three pieces of legislation as first steps to save Social Security. To outline the bills, my first bill, very simply, would grant every current and future Social Security beneficiary a legal right to those Social Security benefits.

The second is a comprehensive plan to move Social Security from the current pay-as-you-go system to one that is a fully funded, personalized retirement system, to ensure a safe, sound, secure retirement program that maximizes benefits for the retiree.

The third bill would provide real information about the costs and the benefits under the current Social Security system.

Mr. President, each working American devotes his or her entire life to a job, or series of jobs, and pays hundreds of thousands of dollars in Social Security taxes into the retirement system. In fact, Social Security taxes are the largest tax that many families will ever pay, accounting for up to one-eighth of the total lifetime income that will go into Social Security.

Many people, including myself, believe that Social Security benefits are our ''earned right.'' We think that because we have paid Social Security taxes, we are legally entitled to receive Social Security benefits. But this ''earned right'' is nothing but an illusion—an illusion created by politicians who call Social Security taxes ''contributions'' and make Social Security sound like it is a regular insurance program.

The truth is that the American people do not have any legal right to their Social Security benefits, though they pay Social Security taxes all of their lives. Their benefits are always at the mercy of the Government and politicians who can adjust them and can even spend them on unrelated Government programs. This fact—that Americans currently have no legal right to Social Security—was decided by the courts when the Social Security was just getting started.

Mr. President, it was back in 1937, less than 2 years after the creation of Social Security, that the Supreme Court decided in the case of Helvering v. Davis that Social Security was not an insurance program.

The court held:

> The proceeds of both the employee and employer taxes are to be paid into the Treasury like any other internal revenue generally, and are not earmarked in any way.

So, basically, Social Security is just a tax, not a retirement system.

The Court also pointed out:

> Congress did not improvise a judgment when it found that the award of old-age benefits would be conducive to the general welfare. The President's committee on economic security made an investigation and report . . . with the loss of savings inevitable in periods of idleness, the fate of workers over 65, when thrown out of work, is little less than desperate. . . . Moreover, laws of the separate States cannot deal with this effectively. . . .Only a power that is national can serve the interests of all.

What it meant was that Social Security was not and is not an insurance program at all, but a tax—a tax, pure and simple—that leaves retirement benefits to be actually determined by the political process—not the benefits of the plan, but the political process.

This decision was later confirmed in another important case, Fleming v. Nestor. In this case, the Supreme Court more expressly ruled that workers have no legally binding contractual rights to their Social Security benefits, and that those benefits can be cut or even eliminated at any time.

Mr. President, this is a very interesting and important case. Ephram Nestor was a Bulgarian immigrant who paid Social Security taxes from 1936 until he retired in 1955. He received a $55.60-per-month Social Security check during his retirement. But in 1956, Nestor was deported for having been a member of the Communist Party in the 1930s. His Social Security checks were stopped in accordance with the law.

Nestor sued the Secretary of Health, Education, and Welfare, claiming that because he had paid Social Security taxes, he had a right to Social Security benefits.

The Supreme Court rejected his claim, clearly stating:

> To engraft upon the Social Security system a concept of ''accrued property rights'' would deprive it of the flexibility and boldness in adjustment to ever changing conditions which it demands.

The Court also held:

> It is apparent that the non-contractual interest of an employee covered by the [Social Security] Act cannot be soundly analogized to that of the holder of an annuity, whose right to benefits is bottomed on his contractual premium payments.

It strikes me that these Supreme Court decisions prove that if Social Security is considered more of a welfare program, there is no assurance that retirees will receive benefits now or in the future if they are judged unworthy, or if the IOUs owed to the Social Security Trust Funds are deemed unnecessary to repay. It also shows, contrary to common belief, that Social Security is not backed by the full faith and credit of the government and is not a government-guaranteed investment. I believe these decisions—which we rarely see referenced, for obvious reasons—are unfair and wrong, and must be corrected.

In my view, workers must have a full legal right to receive government-guaranteed Social Security benefits. The reason is simple: despite these court cases, I believe most people think that the federal government should provide benefits to the American people for their retirement, if those people have paid into the system. It's our moral and contractual duty to honor that commitment, and ensure the program is more of an insurance policy than a welfare program. Coming demographic changes will soon create huge cracks in the Social Security program—if the government fails to make the changes necessary to address the crisis ahead, it would be wrong to let current or future beneficiaries bear that burden.

As a first step to saving Social Security, legislation I am introducing today would grant every current and future Social Security beneficiary an ''earned right,'' or legal right, to their Social Security benefits plus an accurate inflation adjustment. This could be achieved by requiring the government to issue U.S. Treasury-backed certificates specifying the level of guaranteed benefits.

Mr. President, this legislation, the Social Security Benefits Guarantee Act, is not at all complicated. All it does is to create an ''earned right'' to Social Security, which every American deserves and should be given in the first place. It shows that regardless of how we may reform the system in the

future, retirees will earn a return on the investment they make in the form of payroll taxes.

By granting Americans this legal right, we are taking away uncertainties resulting from the growing political debate. Social Security will no longer be subject to Washington's manipulation, and the IOUs will be repaid. Implementing my legislation would force Congress and the Administration to come up with an honest plan to save and strengthen the Social Security system.

But more importantly, it would put millions of current and future Social Security beneficiaries at ease, allowing them to sleep at night without fearing the loss or reduction of their retirement benefits.

Mr. President, once we have secured Social Security benefits, taking the difficult steps to reform the Social Security system will be easier. The current system has served us well until now. The changing demographics of our society makes it impossible for the system to survive without reform. I believe a fully-funded, market-based, personalized retirement system would give all workers full property rights to their retirement investment.

Not only could personal retirement account, or PRA, benefits be three to five times higher than current Social Security benefits, workers would actually own the money in their account and could pass the assets on to their children. It would be part of your estate, which today, as you know, Social Security does not transfer. Congress would no longer spend the surplus money.

That's the reason I am today re-introducing my legislation, the ''Personal Security and Wealth in Retirement Act.''

Mr. President, Americans today are living longer and retiring earlier than ever before. American retirement security is supposedly built on a three-legged stool: Social Security, private pensions, and personal savings. These are the three cornerstones of a secure retirement.

Unfortunately, today these cornerstones have eroded. Without major repair, the stool will collapse, causing serious financial hardship for millions of Americans.

Most Americans rely increasingly on Social Security for their retirement income. Not everyone has a private pension and some are unable to save. Yet Social Security, upon which rests their hopes for a secure retirement, is headed for bankruptcy.

Benefits for 76 million baby boomers and future generations of retirees will not be there unless something is done soon.

I believe the best solution to our retirement crisis is to reform Social Security by moving it from a pay-as-you-go retirement system to a fully-funded, market based system. The legislation I am introducing today will do just that.

The first criticism you will hear is that a market-based retirement system is too risky. However, my plan would guarantee benefits for current and future beneficiaries, while retaining and expanding the current safety net under Social Security.

At the same time, workers would have the freedom to control their funds and resources for their own retirement security within certain safety and soundness parameters. Workers and their employers could divert 10 percent of a worker's income into personal retirement accounts.

In addition, workers could also contribute to personal retirement accounts they've established for their non-working children.

Let me focus on the proposed safety net provisions under my plan: One key component of my proposal is to ensure that a safety net will be there at all times for disadvantaged individuals. This can be done without government guarantees of investments or overly strict regulation of investment options.

Under this legislation, a safety net would be set up and would involve a guaranteed minimum benefit level: 150 percent of the poverty level. When a worker retires, if his or her PRA fails to provide the minimum retirement benefits for whatever reason the government would make up the difference. So nobody would retire into poverty. They would retire at least with a minimum of 150 percent of the poverty level.

The same applies to survivor and disability benefits. If a worker dies or becomes disabled, and his or her PRA doesn't accumulate sufficient funds to provide minimum survivor and disability benefits, the government would match the shortfalls.

This simple safety net is necessary, and the minimum benefit would guarantee that no one in our society would be left impoverished in retirement, while still allowing workers to enjoy the freedom and prosperity achievable under a market-based retirement system.

This would operate in a manner similar to the federal government's Thrift Savings program, which includes safe investments and a far higher return than Social Security. If the system works for us, others should also be able to benefit from it.

Another feature of the fully funded retirement system I'm outlining could provide better survivor and disability benefits than the current Social Security system offers.

Under my plan, for instance, when a worker dies, his family would inherit all the funds accumulated in his PRA.

I use my father as an example. He died at the age of 61, and from Social Security received a check for $253 as a death benefit. But that was all. Under our system, all the money that you have paid in during a lifetime of working would be yours. And, if you happen to die early, it would then be a part of your estate and transferred to your heirs. The savings wouldn't disappear into the black hole of the Social Security trust funds, or become tangled in a survivors' benefit bureaucratic debate.

The system would also provide, besides the retirement savings, a survivors benefit package.

My plan requires the funds that manage PRAs to use part of their annual contribution or yield to buy life and disability insurance, supplementing their accumulated funds to at least match the promised Social Security survivors and disability benefits.

By requiring retirement funds to purchase life and disability insurance for everyone, all workers in each individual fund would be treated as a common pool for underwriting purposes. The insurance would be purchased as a group policy not by individual workers by investment firms or financial institutions, thus avoiding insurance policy underwriting discrimination while providing the largest amount of benefits at the lowest possible cost.

Mr. President, again, a major criticism of a market-based personal retirement account system is that it's inherently volatile, subject to the whims of investors and the market, exposing a worker's retirement income to unnecessary risks.

My plan specifically addresses this concern by requiring the approved investment firms and financial institutions that manage PRAs to have insurance against investment loss.

By approximating the role of the FDIC, we ensure that every PRA would generate a minimum rate of return of at least 2.5 percent, which is more than current Social Security benefits. In fact, Social Security is paying less than 1 percent today, and for future generations it would actually be a negative rate of return.

Regardless of the ups and downs of the markets, workers would still do better under this system than under the current Social Security program.

This is another safety net built into my plan to give the American people peace of mind when it comes to their retirement investment.

To further reduce risks to a worker's PRA, my legislation also requires that rules, regulations, and restrictions similar to those governing IRAs would apply to personal retirement accounts.

PRAs must be properly structured and follow strict, sensible guidelines set forth by the independent federal board that will oversee the system.

In choosing qualified investment firms and financial institutions to manage the PRAs, the oversight board is responsible for examining the credibility and ability of these companies, and then approving them as PRA managers accordingly. In other words, to put in place a very safe and sound retirement system, much like the FDIC is in banks. People are confident their savings is protected. This would be the same with their retirement accounts. They would be protected. This will generate much better returns, as much as three to five times more at retirement

than today's Social Security—three to fives times more benefits when you retire than under the current Social Security plan because personal retirement accounts, unlike Social Security, make real investments which produce new income and produce wealth.

That means improved benefits for everybody, including low-wage earners, without the redistribution of private income.

Mr. GRAMS. The third bill I am introducing today deals with the flow of information related to an individual's Social Security contribution.

Most working Americans are poorly prepared for their retirement. That is because of a disturbing lack of information. Congress needs to help them better plan for retirement by providing useful and accurate information about the Social Security benefits they are going to receive.

In other words, let people know exactly what the system is, how much is in the trust fund, how much money they can expect to receive at retirement, and what will be the rate of return of their investment.

Americans currently receive Social Security information through the personal earnings and benefits estimate statements or the PEBES, provided by the Social Security Administration. However, a recent GAO report shows that the report, although useful, is actually incomplete and it is difficult for many Americans to understand exactly what is in the account for them at Social Security.

As a result, many workers, even those near retirement, continue to overestimate their likely Social Security benefits, which, bottom line, threatens their quality of life throughout their retirement years.

Social Security taxes are the largest tax that many families will ever pay. It will account for up to one-eighth of the total lifetime income they will make. Few Americans know the value or the yield of their investment, because the Government never tells them the whole truth about Social Security by providing them with this key information. Reliable information on Social Security is crucial to enable Americans to better understand the value of their Social Security investment and to help them determine exactly how much they should supplement their expected Social Security benefits with other savings in order to have a certain level of retirement security.

This is particularly important for some ethnic minorities, because research shows that African Americans have lower rates of return from Social Security. They get less back from the system than others who pay in. Low-income, single, African American males have a negative rate of return today. As I said, overall it is about a 1 percent rate of return. For many, it will be a negative rate of return. But for low-income, single, African American males today, they already have a negative rate of return on the money they pay into the system.

My bill would improve the reports by requiring the Social Security Administration to provide an estimate of the Social Security benefits a worker is going to receive in terms of inflation-adjusted dollars, as well as an estimated rate of return the worker is projected to receive from Social Security.

In real dollars, it means today if you are 20 years old, the report says when you retire you could expect to receive about $98,000 a year in retirement benefits. You say, that is great, 98,000 a year; but if you take in the inflation-adjusted amount throughout those 40 years in buying power, it would be less than $14,000 in today's money.

So you need to know exactly what you are going to get at retirement and what the buying power of those dollars is going to be 40 years from now so that you can make better plans on how you are going to plan for your retirement.

Given the crucial role of information about Social Security in retirement planning and the fact that, beginning this year, the statements from Social Security will be mailed annually to every eligible individual over 25, immediate improvement of these standards is imperative. These numbers are already going to be sent out, so this isn't an added cost, this isn't asking for a new program from the Government; this is saying that the report the Social Security Administration is going to send to every American over 25 needs to be more accurate than the information provided today.

Information will not solve all the problems we have with Social Security, but I think it will surely give working Americans some useful tools to help them better plan for retirement.

In closing, American workers labor mightily to put money aside for retirement. They should have full property rights to their money. They deserve the security of owning their retirement benefits and savings. My legislation gives American workers legal protection to their retirement savings. It will stop politicians from cutting their benefits to spend money in other unrelated programs out of our Social Security trust fund. It also allows American workers maximum freedom to better plan for their retirement by giving them more accurate information on their Social Security benefits.

In closing, retirement security is essential to millions of Americans and we must do everything we can to help them achieve that security and the peace of mind that will go along with it.

My legislation charts a course which I believe will lead us there.

By Mr. BAUCUS (for himself, Mr. LAUTENBERG, Mrs. LINCOLN, and Mr. DASCHLE):

S. 1105. A bill to assist local governments and States in assessing and remediating brownfield sites, increase fairness and reduce litigation, and for other purposes; to the Committee on Environment and Public Works.

SUPERFUND LITIGATION REDUCTION AND BROWNFIELD CLEANUP ACT OF 1999

Mr. BAUCUS. Mr. President, today, along with Senators LAUTENBERG, LINCOLN, and DASCHLE, I am introducing legislation to reauthorize and reform the Superfund program, the Superfund Litigation Reduction and Brownfields Cleanup Act.

The Environment and Public Works Committee has been working on Superfund reauthorization legislation for more than six years. It's time to finish the job. To my mind, the best way to accomplish this is to focus on a set of modest but important reforms about which we are likely to be able to achieve a broad bipartisan consensus.

That is what our bill aims to do.

Superfund has been criticized as creating disincentives for cleaning up ''brownfields''—generally, sites in older neighborhoods or industrial areas that are contaminated, but not to the extent that they are likely to be put on the National Priorities List. The main charge is that fear of Superfund liability makes some developers reluctant to invest.

Title I of the bill addresses this concern. It eliminates Superfund liability for prospective purchasers of contaminated property who are not responsible for the contamination, and thereby removes a potential disincentive for brownfields cleanup. The bill also provides liability relief for current owners of contaminated property who are not responsible for and had no reason to know of the contamination when they acquired the property, and persons whose property is contaminated as a result of migration from neighboring property.

In addition, the bill authorizes funding for three purposes:

$35 million per year for five years for grants to local governments, States and Indian tribes to inventory and assess contamination at brownfield sites;

$60 million per year for five years for grants to local governments, States and Indian tribes to capitalize revolving loan funds and for site cleanup; and

$15 million per year for five years to States to develop and enhance voluntary cleanup programs.

Perhaps the most well known criticism of Superfund relates to the toll it can take on small businesses that, despite their often minimal contribution of waste to a site, have been forced to incur significant sums in attorney fees and payments toward cleanup. A significant portion of small businesses that sent waste to a site sent only municipal waste or very small amounts of hazardous waste. In addition, many small businesses simply cannot afford to pay the costs associated with retaining an attorney and cleanup.

To address these problems, the bill provides two liability exemptions.

The first is an exemption for parties that sent a de micromis amount of hazardous waste—presumed to be less than 110 gallons of liquid material or 200 pounds of solid material. (Note that

this provision is not limited to small businesses: it also would exempt a large company that sends only de micromis amounts of waste.)

The second is an exemption for small business and homeowners that sent municipal solid waste from their home or business. There is no limit on the amount of municipal waste these parties sent.

In addition, the bill provides relief for those who sent a relatively small amount of hazardous waste, but more than allowed under the de micromis exemption, and for small businesses with a limited ability to pay. Specifically, the bill provides expedited settlements for contributors of de minimis amounts of waste and persons with a limited ability to pay. These provisions require EPA to make settlement offers as expeditiously as practicable to these parties. A party who contributed 1% or less of the waste to the site is presumed to be de minimis.

Together, these provisions would provide relief for virtually every small business and homeowner that should get relief. The bill also requires that EPA establish a small business Superfund assistance section within the small business ombudsman office of EPA.

Under Superfund, contributors of municipal solid waste and municipal sewage sludge have been sued, and in some instances, found liable, based on the fact that even municipal waste contains some small amount of hazardous substances. At sites with municipal waste (such as municipal landfills), frequently the majority of waste by volume is municipal waste, but the conditions that result in listing the site on the NPL were caused by the more toxic industrial waste. Hence, there has long been controversy as to whether contributors of municipal waste, and municipalities that own municipal landfills on the NPL, should be treated the same as contributors of other waste.

Last year EPA published a policy for settlements with municipal owners and operators of NPL landfills, and for public and private contributors of municipal waste. The policy was developed through negotiations with several municipal organizations.

Our bill codifies EPA's policy. Under the provision, municipalities that own or operate landfills that are on the NPL are entitled to settle for 20% of the cleanup costs at a site, and for 10% if they have a population below 100,000. Contributors of municipal waste, including municipalities and private parties, can settle for $5.30 a ton. This number was calculated based on the cost of cleaning up a municipal landfill that does not also have hazardous waste.

Title IV provides exemptions for contributors of certain ''recyclable material''—paper, plastic, glass, textiles, rubber (other than whole tires), metal and batteries—that meet specified conditions. It is virtually identical to the Lott/Daschle bill in the 105th Congress. In particular, I appreciate the work of Senator LINCOLN on this issue.

Contributions of orphan funding from the Superfund can mitigate much of the perceived unfairness of the joint and several liability system. Allocation pilot studies conducted by EPA revealed that the most important tool for achieving settlements, and in the process reducing transaction costs, is for EPA to offer some contribution of funding to offset costs attributable to parties that are unable to pay.

The bill authorizes $200 million per year for five years in mandatory spending to be used by EPA in cleanup settlements. It is so used to offset costs attributable to parties that are insolvent or defunct or otherwise unable to pay, or for other equitable purposes. This mandatory spending is conditional, however, on the Superfund cleanup program being appropriated at least $1.5 billion annually, exclusive of the $200 million for orphan funding. That so-called ''firewall'' is intended to ensure that cleanups are not sacrificed in order to pay orphan funding. Assuming the program is funded at the required level, EPA would be required to contribute $200 million per year to cleanup settlements. However, to maintain flexibility, EPA would have the discretion to determine how much of the $200 million to allocate to which sites.

The bill authorizes appropriations of $7.5 billion over five years, or $1.5 billion a year. At this level, EPA would be able to maintain the current pace of cleanups, which is resulting in the completion of construction at 85 sites a year. Now that we finally are making good progress in cleaning up sites, its important to maintain this pace.

On a related point, the bill continues to fund cleanups principally through the Superfund Trust Fund. In doing so, it assumes the reinstatement of the two Superfund taxes—the excise taxes on petroleum and chemical feedstocks and the corporate environmental tax of .12 percent of corporate alternative minimum taxable income above $2 million. By doing so, the bill would retain the current reliance on the trust fund to pay for the majority of cleanup costs, with a limited payment from general revenues.

Mr. President, the chairmen of the Environment and Public Works Committee and its Superfund Subcommittee, Senators CHAFEE and SMITH, also have introduced a Superfund reform bill, S. 1090. There are several areas of general agreement between the bill that we are introducing today and S. 1090. Some examples are the exemption for bona fide prospective purchasers and other exemptions intended to promote brownfields redevelopment; exemptions for contributors of recyclable material; and exemptions and expedited settlements for contributors of municipal waste or small amounts of hazardous waste, to protect municipalities and small businesses.

There are, however, some significant differences between the approaches taken in the two bills, particularly with respect to providing an adequate federal safety net to protect public health and the environment, the allocation system, and, perhaps most significantly, providing adequate and assured funding to operate the program.

I hope that we can work cooperatively and expeditiously to resolve these differences, so that we can pass a Superfund reauthorization bill with broad, bipartisan support.

Mr. LAUTENBERG. Mr. President, I rise to introduce the Superfund Litigation Reduction and Brownfield Cleanup Act along with Senators DASCHLE, BAUCUS, and LINCOLN. This bill will strengthen and improve the current Superfund program by cleaning up urban and rural brownfields and removing small, innocent parties from unnecessary superfund litigation.

Unlike the alternative Superfund proposal offered by the Republicans on Environment and Public Works Committee, this bill continues what is best about the Superfund program and makes the minor adjustments necessary to make it cost effective.

Mr. President, way back in the 103rd Congress, the critics of Superfund raised a number of issues. They asserted that the program was too slow, that not enough cleanups were taking place, that there was too much litigation.

At the time, we were seeking solutions which would make the program faster, streamline cleanups, treat parties more fairly and get the little guys out earlier, all while keeping those responsible for the problem also responsible for cleaning it up. This was all within the general goals of achieving more cleanups and therefore providing better protection of human health and the environment.

I am proud of those proposals, and many of us still on the Environment and Public Works Committee, including Chairman CHAFEE, who voted for that bill way back in the 103rd Congress should also be proud. Many of those proposals, although never enacted into law, were adopted administratively by EPA and radically altered the Superfund Program as we know it.

Others have been tested and been improved upon. In general, the thrust of this bill has resulted in many of the achievements of the current program.

According to a report issued by the General Accounting Office, by the end of this fiscal year all cleanup remedies will have been selected for 95 percent of nonfederal NPL sites (1,109 of 1,169 sites).

In addition, approximately 990 NPL sites have final cleanup plans approved, approximately 5,600 emergency removal actions have been taken at hazardous waste sites to stabilize dangerous situations and to reduce the threat to human health and the environment.

More than 30,900 sites have been removed from the Superfund inventory of

potential waste sites, to help promote the economic redevelopment of these properties.

During this same time, EPA has worked to improve the fairness and efficiency of the enforcement program, even while keeping up the participation of potentially responsible parties in cleaning up their sites.

EPA has negotiated more than 400 deminimis settlements with over 18,000 small parties, which gave protection for these parties against expensive contribution suits brought by other private parties. Sixty six percent of these have been in the last four years alone.

Since fiscal year 1996, EPA has offered ''orphan share'' compensation of over $145 million at 72 sites to responsible parties who were willing to step up and negotiate settlements of their cases. EPA is now offering this at every single settlement, to reward settlors and reduce litigation, both with the government, and with other private parties.

These are just a few highlights of the improvements made in the program, many drawn from our earlier legislative proposals. Other improvements, such as instituting the targeted review of complex and high-cost cleanups, prior to remedy selection, have reduced the cost of cleanups without delaying the pace of cleanups.

EPA's administrative reforms have significantly improved the program, by speeding up cleanups and reducing senseless litigation, and making the program fairer, faster and more efficient overall.

But despite the fact that this is a program that has finally really hit its stride, we are now faced with proposals from the majority which could undercut the progress in the program, and which are premised on a goal of closing down the program rather than a goal of cleaning up the sites. Indeed, the very title of their bill, the Superfund Program Completion Act, reflects this intent.

I am deeply troubled by many of the provisions in the Republican bill, which would have the effect of ramping the program down without regard to the amount of site work left to be done. This bill provides for lowered funding levels, a cap on the NPL, waivers of the federal safety net, and some broad liability exemptions.

At the same time, it creates a number of new, expensive obligations which would further reduce the amount of money available for cleanup. It also shifts the costs of the program to the taxpayers and would not include an extension of the Superfund tax.

In short, while I am encouraged by the fact that the Republican bill drops some troubling provisions from prior bills, it introduces a whole set of new issues that are cause for great concern.

I think it is very clear that what we need here is a better Superfund program, not a retreat from tackling our environmental problems.

We need a bill that continues to accelerate the pace of cleanups, keeps cleanups protective, reduces litigation and transaction costs, is affordable and does not shift costs to the American taxpayer.

That is why I am introducing the Superfund Litigation Reduction and Brownfield Cleanup Act of 1999. I believe that this bill, is in some areas very close to the provisions supported by my Republican colleagues, but differs in some critical areas.

It would protect cleanups, reduce litigation and not shift costs to the American taxpayer.

I hope that these are goals we can agree on. And I urge my colleagues to not throw the Superfund baby out with the bathwater.

I look forward to working with my colleagues to strengthen the Superfund program in the 21st century not dismantle it.

I ask unanimous consent that the bill and a summary of the Legislation be printed in the RECORD.

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

S. 1105

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 ''Superfund Litigation Reduction and Brownfield Cleanup Act of 1999''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—BROWNFIELDS LIABILITY RELIEF

Sec. 101. Finality for buyers.
Sec. 102. Finality for owners and sellers.
Sec. 103. Regulatory authority.

TITLE II—SMALL BUSINESS LIABILITY RELIEF

Sec. 201. Liability exemptions.
Sec. 202. Expedited settlement for de minimis contributions and limited ability to pay.
Sec. 203. Small business ombudsman.

TITLE III—SETTLEMENTS FOR MUNICIPALITIES AND CONTRIBUTORS OF MUNICIPAL WASTE

Sec. 301. Municipal owners and operators.
Sec. 302. Expedited settlements with contributors of municipal waste.

TITLE IV—CLARIFICATION OF LIABILITY FOR RECYCLING TRANSACTIONS

Sec. 401. Recycling transactions.

TITLE V—BROWNFIELDS CLEANUP

Sec. 501. Brownfields funding.
Sec. 502. Research, development, demonstration, and training.
Sec. 503. State voluntary cleanup programs.
Sec. 504. Audits.

TITLE VI—SETTLEMENT INCENTIVES

Sec. 601. Fairness in settlements.

TITLE VII—FUNDING

Sec. 701. Authorization of appropriations.
Sec. 702. Funding for cleanup settlements.
Sec. 703. Agency for Toxic Substances and Disease Registry.
Sec. 704. Brownfields.
Sec. 705. Authorization of appropriations from general revenues.
Sec. 706. Worker training and education grants.

TITLE VIII—DEFINITIONS

Sec. 801. Definitions.

TITLE I—BROWNFIELDS LIABILITY RELIEF

SEC. 101. FINALITY FOR BUYERS.

(a) LIMITATIONS ON LIABILITY.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) is amended by adding at the end the following:

''(o) LIMITATION ON LIABILITY FOR PROSPECTIVE PURCHASERS.—Notwithstanding paragraphs (1) through (4) of subsection (a), to the extent the liability of a person, with respect to a release or the threat of a release from a facility, is based solely on subsection (a)(1), the person shall not be liable under this Act if the person—

''(1) is a bona fide prospective purchaser of the facility; and

''(2) does not impede the performance of any response action or natural resource restoration at a facility.''.

(b) PROSPECTIVE PURCHASER AND WINDFALL LIEN.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as amended by subsection (a)) is amended by adding at the end the following:

''(p) PROSPECTIVE PURCHASER AND WINDFALL LIEN.—

''(1) IN GENERAL.—In any case in which the United States has incurred unrecovered response costs at a facility for which an owner of the facility is not liable by reason of subsection (o), and the conditions described in paragraph (3) are met, the United States shall—

''(A) have a lien on the facility; or

''(B) may obtain, from the appropriate responsible party or parties, a lien on other property or other assurances of payment satisfactory to the Administrator, for the unrecovered costs.

''(2) AMOUNT; DURATION.—The lien shall—

''(A) be for an amount not to exceed the lesser of the amount of—

''(i) the response costs of the United States; or

''(ii) the increase in fair market value of the property attributable to the response action at the time of a subsequent sale or other disposition of the property;

''(B) arise at the time costs are first incurred by the United States with respect to a response action at the facility;

''(C) be subject to the requirements for notice and validity specified in subsection (l)(3); and

''(D) continue until the earlier of satisfaction of the lien or recovery of all response costs incurred at the facility, notwithstanding any statute of limitations under section 113.

''(3) CONDITIONS.—The conditions referred to in paragraph (1) are the following:

''(A) RESPONSE ACTION.—A response action for which the United States has incurred unrecovered costs of a response not inconsistent with the National Contingency Plan is carried out at the facility.

''(B) FAIR MARKET VALUE.—The response action increases the fair market value of the facility above the fair market value of the facility that existed before the response action was commenced.

''(4) SETTLEMENT.—Nothing in this subsection prevents the United States and the purchaser from entering into a settlement at any time that extinguishes a lien of the United States.''.

(c) DEFINITION OF BONA FIDE PROSPECTIVE PURCHASER.—Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601) is amended by adding at the end the following:

''(39) BONA FIDE PROSPECTIVE PURCHASER.—The term 'bona fide prospective purchaser'

means a person or a tenant of a person that acquires ownership of a facility after the date of enactment of this paragraph that can establish each of the following by a preponderance of the evidence:

''(A) DISPOSAL PRIOR TO ACQUISITION.—All active disposal of hazardous substances at the facility occurred before the person acquired the facility.

''(B) INQUIRY.—

''(i) IN GENERAL.—The person made all appropriate inquiry into the previous ownership and uses of the facility in accordance with generally accepted good commercial and customary standards and practices.

''(ii) STANDARDS.—The standards and practices referred to in clause (ii) of paragraph (35)(B) or those issued or designated by the Administrator under that clause shall satisfy the requirements of this subparagraph.

''(iii) RESIDENTIAL PROPERTY.—In the case of property in residential or other similar use at the time of purchase by a nongovernmental or noncommercial entity, a site inspection and title search that reveal no basis for further investigation shall satisfy the requirements of this subparagraph.

''(C) NOTICES.—The person provided all legally required notices with respect to the discovery or release of any hazardous substances at the facility.

''(D) CARE.—The person exercised appropriate care with respect to hazardous substances found at the facility by taking reasonable steps to—

''(i) stop ongoing releases;

''(ii) prevent threatened future releases of hazardous substances; and

''(iii) prevent or limit human, environmental, or natural resource exposure to hazardous substances previously released into the environment.

''(E) COOPERATION, ASSISTANCE, AND ACCESS.—The person—

''(i) provides full cooperation, assistance, and access to the persons that are authorized to conduct the response and restoration actions at the facility, including the cooperation and access necessary for the assessment of contamination, installation, preservation of integrity, operation, and maintenance of any complete or partial response action at the facility; and

''(ii) has fully complied and is in full compliance with any land use or activity restrictions on the property established or relied on in connection with a response action at the facility, including informing any other party that the person allows to occupy or use the property of the restrictions and taking prompt action to correct any noncompliance by the party.

''(F) RELATIONSHIP.—

''(i) IN GENERAL.—The person is not liable or affiliated with any other person that is potentially liable for response costs at the facility through any direct or indirect familial relationship, or any contractual, corporate, or financial relationship other than that created by the instruments by which title to the facility is conveyed or financed.

''(ii) REORGANIZATION.—An entity that results from the reorganization of a business entity that is potentially liable does not qualify as a bona fide prospective purchaser with respect to a purchase or transfer of property directly or indirectly from the potentially liable entity.''.

SEC. 102. FINALITY FOR OWNERS AND SELLERS.

(a) KNOWLEDGE OF INQUIRY REQUIREMENT FOR INNOCENT LANDOWNERS.—Section 101(35) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(35)) is amended—

(1) in subparagraph (A), by striking '', unless'' and inserting ''. An owner or operator of a facility may only assert under section 107(b)(3) that an act or omission of a previous owner or operator of that facility did not occur in connection with a contractual relationship if''; and

(2) by striking subparagraph (B) and inserting the following:

''(B) KNOWLEDGE OF INQUIRY REQUIREMENT.—

''(i) DEFINITION OF CONTAMINATION.—In this subparagraph, the term 'contamination' means an existing release, a past release, or the threat of a release of a hazardous substance.

''(ii) REQUIREMENT.—

''(I) INQUIRY.—To establish that the defendant had no reason to know (under subparagraph (A)(i)), the defendant must have made, at the time of the acquisition, all appropriate inquiry (as well as comply with clause (vii)) into the previous ownership and uses of the facility, consistent with good commercial or customary practice in an effort to minimize liability.

''(II) CONSIDERATIONS.—For the purpose of subclause (I) and until the President issues or designates standards as provided in clause (iv), the court shall take into account—

''(aa) any specialized knowledge or experience on the part of the defendant;

''(bb) the relationship of the purchase price to the value of the property if uncontaminated;

''(cc) commonly known or reasonably ascertainable information about the property;

''(dd) the obviousness of the presence or likely presence of contamination at the property; and

''(ee) the ability to detect the contamination by appropriate investigation.

''(iii) CONDUCT OF SITE ASSESSMENT.—A person who has acquired real property shall be considered to have made all appropriate inquiry within the meaning of clause (ii)(I) if—

''(I) the person establishes that, not later than 180 days before the date of acquisition, a site assessment of the real property was conducted that meets the requirements of clause (iv); and

''(II) the person complies with clause (vii).

''(iv) SITE ASSESSMENT STANDARDS.—

''(I) IN GENERAL.—A site assessment meets the requirements of this clause if the assessment is conducted in accordance with the standards set forth in the American Society for Testing and Materials (ASTM) Standard E1527–94, entitled 'Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process' or with any alternative standards issued by regulation by the President or issued or developed by other entities and designated by regulation by the President.

''(II) STUDY OF PRACTICES.—Before issuing or designating alternative standards under subclause (I), the President shall conduct a study of commercial and industrial practices concerning site assessments in the transfer of real property in the United States.

''(v) CONSIDERATIONS IN ISSUING STANDARDS.—In issuing or designating any standards under clause (iv), the President shall consider requirements governing each of the following:

''(I) Conduct of an inquiry by an environmental professional.

''(II) Interviews of each owner, operator, and occupant of the property to determine information regarding the potential for contamination.

''(III) Review of historical sources as necessary to determine each previous use and occupancy of the property since the property was first developed. In this subclause, the term 'historical sources' means any of the following, if reasonably ascertainable: each recorded chain of title document regarding the real property, including each deed, easement, lease, restriction, and covenant, any aerial photograph, fire insurance map, property tax file, United States Geological Survey 7.5 minutes topographic map, local street directory, building department record, and zoning/land use record, and any other source that identifies a past use or occupancy of the property.

''(IV) Determination of the existence of any recorded environmental cleanup lien against the real property that has arisen under any Federal, State, or local law.

''(V) Review of reasonably ascertainable Federal, State, and local government records of any facility that is likely to cause or contribute to contamination at the real property, including, as appropriate—

''(aa) any investigation report for the facility;

''(bb) any record of activities likely to cause or contribute to contamination at the real property, including any landfill or other disposal location record, underground storage tank record, hazardous waste handler and generator record, and spill reporting record; and

''(cc) any other reasonably ascertainable Federal, State, and local government environmental record that could reflect an incident or activity that is likely to cause or contribute to contamination at the real property.

''(VI) A visual site inspection of the real property and each facility and improvement on the real property and a visual site inspection of each immediately adjacent property, including an investigation of any hazardous substance use, storage, treatment, or disposal practice on the property.

''(VII) Any specialized knowledge or experience on the part of the person that acquired the property.

''(VIII) The relationship of the purchase price to the value of the property if uncontaminated.

''(IX) Commonly known or reasonably ascertainable information about the property.

''(X) The obviousness of the presence or likely presence of contamination at the property, and the ability to detect the contamination by appropriate investigation.

''(vi) REASONABLY ASCERTAINABLE.—A record shall be considered to be reasonably ascertainable for purposes of clause (v) if a copy or reasonable facsimile of the record is publicly available by request (within reasonable time and cost constraints) and the record is practicably reviewable.

''(vii) APPROPRIATE INQUIRY.—A person shall not be treated as having made all appropriate inquiry under clause (ii)(I) unless—

''(I) the person has maintained a compilation of the information reviewed and gathered in the course of any site assessment;

''(II) with respect to hazardous substances found at the facility, the person, at a minimum, takes reasonable steps to—

''(aa) stop ongoing releases of hazardous substances;

''(bb) prevent threatened future releases of hazardous substances; and

''(cc) prevent or limit human, environmental, or natural resource exposure to hazardous substances previously released into the environment;

''(III) the person provides full cooperation, assistance, and facility access to such persons as are authorized to conduct response actions at the facility, including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial response action at the facility; and

''(IV) the person has fully complied with and is in full compliance with any land use or activity restrictions on the property established or relied on in connection with a

response action at the facility, including informing any other party that the person allows to occupy or use the property of such restrictions and taking prompt action to correct any noncompliance by such parties.

''(viii) SITE INSPECTION AND TITLE SEARCH.—In the case of property for residential use or other similar use purchased by a nongovernmental or noncommercial entity, a site inspection and title search that reveal no basis for further investigation shall satisfy the requirements of clause (ii).''.

(b) LIMITATION ON LIABILITY FOR CONTIGUOUS PROPERTY OWNERS.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) (as amended by section 101(b)) is amended by adding at the end the following:

''(q) CONTIGUOUS PROPERTIES.—

''(1) IN GENERAL.—A person that owns or operates real property that is contiguous to or otherwise similarly situated with respect to other real property that is not owned or operated by that person and that is or may be contaminated by a release or threatened release of a hazardous substance from the other real property shall not be considered to be an owner or operator of a vessel or facility under paragraph (1) or (2) of subsection (a) solely by reason of the contamination if such person establishes by a preponderance of the evidence that—

''(A) the person did not cause, contribute, or consent to the release or threatened release;

''(B) the person is not affiliated with any other person that is liable or potentially liable for any response costs at the facility;

''(C) with respect to hazardous substances on or under the person's property, the person, at a minimum, takes reasonable steps to—

''(i) stop ongoing releases;

''(ii) prevent threatened future releases of hazardous substances; and

''(iii) prevent or limit human, environmental, or natural resource exposure to hazardous substances previously released into the environment;

''(D) the person provides full cooperation, assistance, and access to the persons that are authorized to conduct the response and restoration actions at the facility, including the cooperation and access necessary for the assessment of contamination, or installation, preservation of integrity, operation, and maintenance of any complete or partial response action at the facility;

''(E) the person has fully complied and is in full compliance with any land use or activity restrictions on the property established or relied on in connection with a response action at the facility, including informing any other party that the person allows to occupy or use the property of the restrictions and taking prompt action to correct any noncompliance by the party;

''(F) the person provided all legally required notices with respect to the discovery of the release; and

''(G) at the time the person acquired the property, the person—

''(i) conducted all appropriate inquiry within the meaning of subparagraph (B) of section 101(35); and

''(ii) did not know or have reason to know that the property was or could be contaminated by a release or threatened release of hazardous substances from other real property not owned or operated by that person.

''(2) ASSURANCES.—The President may issue an assurance that no enforcement action under this Act shall be initiated against a person described in paragraph (1).

''(3) GROUNDWATER.—With respect to hazardous substances in groundwater beneath the person's property solely as a result of subsurface migration in an aquifer from a source or sources outside the property, paragraph (1)(C) shall not require that the person conduct groundwater investigations or install groundwater remediation systems, except in accordance with the policy of the Environmental Protection Agency on owners of property containing contaminated aquifers, dated May 24, 1995.

''(4) BONA FIDE PROSPECTIVE PURCHASER.—Any person that does not qualify as a person described in paragraph (1) because the person had the knowledge specified paragraph (1)(G) at the time of acquisition of the real property may qualify as a bona fide prospective purchaser under section 101(39) if the person is otherwise described in that section.

''(5) NO LIMITATION ON DEFENSES.—Nothing in this subsection—

''(A) limits defenses to liability that otherwise may be available to persons described in this subsection; or

''(B) imposes liability not otherwise imposed by section 107(a) on such persons.''.

SEC. 103. REGULATORY AUTHORITY.

(a) IN GENERAL.—The Administrator may—

(1) issue such regulations as the Administrator considers necessary to carry out the amendments made by this title; and

(2) assign any duties or powers imposed on or assigned to the Administrator by the amendments made by this title.

(b) AUTHORITY TO CLARIFY AND IMPLEMENT.—The authority under subsection (a) includes authority to clarify or interpret all terms, including the terms used in this title, and to implement any provision of the amendments made by this title.

TITLE II—SMALL BUSINESS LIABILITY RELIEF

SEC. 201. LIABILITY EXEMPTIONS.

Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) (as amended by section 102(b)) is amended by adding at the end the following:

''(r) DE MICROMIS EXEMPTION.—

''(1) IN GENERAL.—Notwithstanding paragraphs (1) through (4) of subsection (a), and except as provided in paragraph (2), a person shall not be liable under this Act to the United States or any other person (including liability for contribution) for any response costs incurred with respect to a facility if—

''(A) liability is based solely on paragraph (3) or (4) of subsection (a);

''(B) the total of materials containing a hazardous substance that the person arranged for disposal or treatment of, arranged with a transporter for transport for disposal or treatment of, or accepted for transport for disposal or treatment, at the facility, was less than 110 gallons of liquid materials or less than 200 pounds of solid material, or such greater quantity as the Administrator may determine by regulation; and

''(C) the acts on which liability is based took place before May 1, 1999.

''(2) EXCEPTION.—Paragraph (1) shall not apply in a case in which the Administrator determines that—

''(A) the material containing a hazardous substance referred to in paragraph (1) contributed or could contribute significantly, individually or in the aggregate, to the cost of the response action with respect to the facility; or

''(B) the person has failed to comply with any request for information or administrative subpoena issued by the President under this Act or has impeded or is impeding the performance of a response action with respect to the facility.

''(s) MUNICIPAL SOLID WASTE EXEMPTION.—

''(1) IN GENERAL.—Notwithstanding paragraphs (1) through (4) of subsection (a), and except as provided in paragraph (2), a person shall not be liable under this Act to the United States or any other person (including liability for contribution) for response costs incurred with respect to a facility to the extent that—

''(A) liability is based on paragraph (3) or (4) of subsection (a);

''(B) liability is based on an arrangement for disposal or treatment of, an arrangement with a transporter for transport for disposal or treatment of, or an acceptance for transport for disposal or treatment at a facility of, municipal solid waste; and

''(C) the person is—

''(i) an owner, operator, or lessee of residential property from which all of the person's municipal solid waste was generated with respect to the facility;

''(ii) a business entity (including any parent, subsidiary, or other affiliate of the entity) that, during the taxable year preceding the date of transmittal of written notification that the business is potentially liable, employed not more than 100 individuals, and from which was generated all of the entity's municipal solid waste with respect to the facility; or

''(iii) a small nonprofit organization that, during the taxable year preceding the date of transmittal of written notification that the organization is potentially liable, employed not more than 100 individuals, if the particular chapter, office, or department employing fewer than 100 individuals was the location from which was generated all of the municipal solid waste attributable to the organization with respect to the facility.

''(2) EXCEPTION.—Paragraph (1) shall not apply in a case in which the President determines that the person has failed to comply with any request for information or administrative subpoena issued by the President under this Act or has impeded or is impeding the performance of a response action with respect to the facility.''.

SEC. 202. EXPEDITED SETTLEMENT FOR DE MINIMIS CONTRIBUTIONS AND LIMITED ABILITY TO PAY.

(a) PARTIES ELIGIBLE.—Section 122(g) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9622(g)) is amended—

(1) in paragraph (1), by redesignating subparagraph (B) as subparagraph (E);

(2) by striking ''(g)'' and all that follows through the end of paragraph (1)(A) and inserting the following:

''(g) EXPEDITED FINAL SETTLEMENT.—

''(1) PARTIES ELIGIBLE.—

''(A) IN GENERAL.—The President shall, as expeditiously as practicable, notify of eligibility for a settlement, and offer to reach a final administrative or judicial settlement with, each potentially responsible party that, in the judgment of the President, meets 1 or more of the conditions stated in subparagraphs (B), (C), (F), and (G).

''(B) DE MINIMIS CONTRIBUTION.—The condition stated in this subparagraph is that the liability of the potentially responsible party is for response costs based on paragraph (3) or (4) of subsection (a) and the potentially responsible party's contribution of hazardous substances at a facility is de minimis. For the purposes of this subparagraph, a potentially responsible party's contribution shall be considered to be de minimis only if the President determines that both of the following criteria are met:

''(i) The quantity of material containing a hazardous substance contributed by the potentially responsible party to the facility is minimal relative to the total quantity of material containing hazardous substances at the facility. The quantity of a potentially responsible party's contribution shall be presumed to be minimal if the quantity is 1 percent or less of the total quantity of materials containing hazardous substances at the

facility, unless the Administrator identifies a different threshold based on site-specific factors.

''(ii) The material containing a hazardous substance contributed by the potentially responsible party does not present toxic or other hazardous effects that are significantly greater than the toxic or other hazardous effects of other material containing hazardous substances at the facility.

''(C) REDUCTION IN SETTLEMENT AMOUNT BASED ON LIMITED ABILITY TO PAY.—

''(i) IN GENERAL.—The conditions stated in this subparagraph are that the potentially responsible party—

''(I) is—

''(aa) a natural person; or

''(bb) a small business; and

''(II) demonstrates to the President an inability or a limited ability to pay response costs.

''(ii) SMALL BUSINESSES.—

''(I) DEFINITION OF SMALL BUSINESS.—In this subparagraph, the term 'small business' means a business entity that, together with its parents, subsidiaries, and other affiliates, had an average of not more than 75 full-time equivalent employees and an average of not more than $3,000,000 in annual gross revenues, as reported to the Internal Revenue Service, during the 3 years preceding the date on which the business entity first received notice from the President of its potential liability under this Act.

''(II) OTHER BUSINESSES.—A business shall be eligible for a settlement under this subparagraph if the business—

''(aa) has an average of not more than 75 employees or an average of not more than $3,000,000 in annual gross revenue; and

''(bb) meets all other requirements for a settlement under this subparagraph.

''(III) CONSIDERATIONS.—At the request of a small business, the President shall take into consideration the ability of the small business to pay response costs and still maintain its basic business operations, including consideration of the overall financial condition of the small business and demonstrable constraints on the ability of the small business to raise revenues.

''(IV) INFORMATION.—A small business requesting settlement under this paragraph shall promptly provide the President with all relevant information needed to determine the ability of the small business to pay response costs.

''(V) DETERMINATION.—To be eligible to be covered by this subparagraph, the business shall demonstrate to the President the inability of the small business to pay response costs. If the small business employs fewer than 25 full-time equivalent employees and has average gross income revenues of less than $2,000,000, the President shall, on request, perform any analysis that the President determines may assist in demonstrating the impact of a settlement on the small business' ability to maintain its basic operations. The President may perform such analysis for any other party or request such other party to perform the analysis.

''(VI) ALTERNATIVE PAYMENT METHODS.—If the President determines that a small business is unable to pay its total settlement quantity immediately, the President shall consider such alternative payment methods as may be necessary or appropriate.

''(D) ADDITIONAL CONDITIONS FOR EXPEDITED SETTLEMENTS.—

''(i) WAIVER OF CLAIMS.—The President shall require, as a condition of settlement under this paragraph, that a potentially responsible party waive some or all of the claims (including a claim for contribution under section 113) that the party may have against other potentially responsible parties for response costs incurred with respect to the facility, unless the President determines that requiring a waiver would be unjust.

''(ii) EXCEPTION.—The President may decline to offer a settlement to a potentially responsible party under this paragraph if the President determines that the potentially responsible party has failed to comply with any request for access or information or an administrative subpoena issued by the President under this Act or has impeded or is impeding the performance of a response action with respect to the facility.

''(iii) RESPONSIBILITY TO PROVIDE INFORMATION AND ACCESS.—A potentially responsible party that enters into a settlement under this paragraph shall not be relieved of the responsibility to provide any information or access requested by the President in accordance with subsection (e)(3)(B) or section 104(e).

''(iv) BASIS OF DETERMINATION.—If the President determines that a potentially responsible party is not eligible for settlement under this paragraph, the President shall state the reasons for the determination in writing to any potentially responsible party that requests a settlement under this paragraph.

''(v) NO JUDICIAL REVIEW.—A determination by the President under this paragraph shall not be subject to judicial review.''; and

(3) in subparagraph (E) of paragraph (1) (as redesignated by paragraph (1))—

(A) by redesignating clauses (i) through (iii) as subclauses (I) through (III), respectively, and adjusting the margins appropriately;

(B) by striking ''(E) The potentially responsible party'' and inserting the following:

''(E) OWNERS OF REAL PROPERTY.—

''(i) IN GENERAL.—The condition stated in this subparagraph is that the potentially responsible party''; and

(C) by striking ''This subparagraph (B)'' and inserting the following:

''(ii) APPLICABILITY.—Clause (i)''.

(b) SETTLEMENT OFFERS.—Section 122(g) of the Comprehensive Environment Response, Liability, and Compensation Act of 1980 (42 U.S.C. 9622(g)) is amended—

(1) by redesignating paragraph (6) as paragraph (9); and

(2) by inserting after paragraph (5) the following:

''(6) SETTLEMENT OFFERS.—

''(A) NOTIFICATION.—As soon as practicable after receipt of sufficient information to make a determination, the Administrator shall notify any person that the Administrator determines is eligible under paragraph (1) of the person's eligibility for the expedited final settlement.

''(B) OFFERS.—As soon as practicable after receipt of sufficient information, the Administrator shall submit a written settlement offer to each person that the Administrator determines, based on information available to the Administrator at the time at which the determination is made, to be eligible for a settlement under paragraph (1).

''(C) INFORMATION.—At the time at which the Administrator submits an offer under paragraph (1), the Administrator shall, at the request of the recipient of the offer, make available to the recipient any information available under section 552 of title 5, United States Code, on which the Administrator bases the settlement offer, and if the settlement offer is based in whole or in part on information not available under that section, so inform the recipient.

''(7) LITIGATION MORATORIUM.—

''(A) IN GENERAL.—No person that has received notification from the Administrator under paragraph (6) that the person is eligible for an expedited settlement under paragraph (1) shall be named as a defendant in any action under this Act for recovery of response costs (including an action for contribution) during the period—

''(i) beginning on the date on which the person receives from the President written notice of the person's potential liability and notice that the person is a party that may qualify for an expedited settlement; and

''(ii) ending on the earlier of—

''(I) the date that is 90 days after the date on which the President tenders a written settlement offer to the person; or

''(II) the date that is 1 year after receipt of notice from the President that the person may qualify for an expedited settlement.

''(B) SUSPENSION OF PERIOD OF LIMITATION.—The period of limitation under section 113(g) applicable to a claim against a person described in subparagraph (A) for response costs, natural resource damages, or contribution shall be suspended during the period described in subparagraph (A).

''(8) NOTICE OF SETTLEMENT.—After a settlement under this subsection becomes final with respect to a facility, the President shall promptly notify potentially responsible parties at the facility that have not resolved their liability to the United States of the settlement.''.

SEC. 203. SMALL BUSINESS OMBUDSMAN.

Section 117 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9617) is amended by adding at the end the following:

''(f) SMALL BUSINESS OMBUDSMAN.—

''(1) ESTABLISHMENT.—The Administrator shall establish a small business Superfund assistance section within the small business ombudsman office of the Environmental Protection Agency.

''(2) FUNCTIONS.—The small business Superfund assistance section shall—

''(A) act as a clearinghouse for the provision to small businesses of information, in a form that is comprehensible to a layperson, regarding this Act, including information regarding—

''(i) requirements and procedures for expedited settlements under section 122(g); and

''(ii) ability-to-pay procedures under section 122(g);

''(B) provide general advice and assistance to small businesses regarding questions and problems concerning the settlement processes (not including legal advice as to liability or any other legal representation); and

''(C) develop proposals and make recommendations for changes in policies and activities of the Environmental Protection Agency that would better fulfill the goals of this title and the amendments made by this title in ensuring equitable, simplified, and expedited settlements for small businesses.''.

TITLE III—SETTLEMENTS FOR MUNICIPALITIES AND CONTRIBUTORS OF MUNICIPAL WASTE

SEC. 301. MUNICIPAL OWNERS AND OPERATORS.

Section 107 of the Comprehensive Environment Response, Liability, and Compensation Act of 1980 (42 U.S.C. 9607) (as amended by section 201) is amended by adding at the end the following:

''(t) MUNICIPAL OWNERS AND OPERATORS.—

''(1) IN GENERAL.—A municipality that is liable for response costs under paragraph (1) or (2) of subsection (a) on the basis of ownership or operation of a municipal landfill that was listed on the National Priority List on or before May 1, 1999, shall be eligible for a settlement of that liability.

''(2) SETTLEMENT AMOUNT.—

''(A) MUNICIPALITIES WITH A POPULATION OF 100,000 OR MORE.—

''(i) IN GENERAL.—Subject to clauses (ii) and (iii), the President shall offer a settlement to a municipality with a population of 100,000 (as measured by the 1990 census) or more with respect to liability described in

paragraph (1) on the basis of a payment or other obligation equivalent in value to not more than 20 percent of the total response costs incurred with respect to a facility.

''(ii) DECREASED AMOUNT.—The President may decrease the percentage under clause (i) with respect to a municipality to not less than 10 percent if the President determines that the municipality took specific acts of mitigation during the operation of the facility to avoid environmental contamination or exposure with respect to the facility.

''(iii) INCREASED AMOUNT.—The President may increase the percentage under clause (i) to not more than 35 percent if the President determines that—

''(I) the municipality committed specific acts that exacerbated environmental contamination or exposure with respect to the facility; or

''(II) the municipality, during the period of ownership or operation of the facility, received operating revenues substantially in excess of the sum of the waste system operating costs plus 20 percent of total estimated response costs incurred with respect to the facility.

''(B) MUNICIPALITIES WITH A POPULATION OF LESS THAN 100,000.—The President shall offer a settlement to a municipality with a population of less than 100,000 (as measured by the 1990 census) with respect to liability described in paragraph (1) in an amount that does not exceed 10 percent of the total response costs incurred with respect to the facility.

''(3) PERFORMANCE OF RESPONSE ACTIONS.—As a condition of a settlement with a municipality under this subsection, the President may require that the municipality perform or participate in the performance of the response actions at the facility.

''(4) OWNERSHIP OR OPERATION BY 2 OR MORE MUNICIPALITIES.—A combination of 2 or more municipalities that jointly own or operate (or owned or operated) a facility at the same time or during continuous operations under municipal control shall be considered to be a single owner or operator for the purpose of calculating a settlement offer under this subsection.

''(5) WAIVER OF CLAIMS.—The President shall require, as a condition of a settlement under this subsection, that a municipality or combination of 2 or more municipalities waive some or all of the claims (including a claim for contribution under section 113) that the party may have against other potentially responsible parties for response costs incurred with respect to the facility, unless the President determines that requiring a waiver would be unjust.

''(6) EXCEPTIONS.—The President may decline to offer a settlement under this subsection with respect to a facility if the President determines that the municipal owner or operator has failed to comply with any request for information or administrative subpoena issued by the United States under this Act, has failed to provide facility access to persons authorized to conduct response actions at the facility, or has impeded or is impeding the performance of a response action with respect to the facility.''.

SEC. 302. EXPEDITED SETTLEMENTS WITH CONTRIBUTORS OF MUNICIPAL WASTE.

Section 122(g)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9622(g)(1)) (as amended by section 202(a)) is amended by adding at the end the following:

''(F) CONTRIBUTION OF MUNICIPAL SOLID WASTE AND MUNICIPAL SEWAGE SLUDGE.—

''(i) IN GENERAL.—The condition stated in this subparagraph is that the liability of the potentially responsible party is for response costs based on paragraph (3) or (4) of section 107(a) and the potentially responsible party arranged for disposal or treatment of, arranged with a transporter for transport for disposal or treatment of, or accepted for transport for disposal or treatment, at a facility listed on the National Priorities List—

''(I) municipal solid waste; or

''(II) municipal sewage sludge.

''(ii) SETTLEMENT AMOUNT.—

''(I) IN GENERAL.—The President shall offer a settlement to a party referred to in clause (i) with respect to liability under paragraph (3) or (4) of section 107(a) on the basis of a payment of $5.30 per ton of municipal solid waste or municipal sewage sludge that the President estimates is attributable to the party.

''(II) REVISION.—

''(aa) IN GENERAL.—The President, after consulting with local government officials, may revise the per-ton rate by regulation.

''(bb) BASIS.—A revised settlement amount under item (aa) shall reflect the estimated per-ton cost of closure and post-closure activities at a representative facility containing only municipal solid waste or municipal sewage sludge.

''(iii) ADJUSTMENT FOR INFLATION.—The Administrator may by guidance periodically adjust the settlement amounts under clause (ii) to reflect changes in the Consumer Price Index (or other appropriate index, as determined by the Administrator).

''(iv) OTHER MATERIAL.—

''(I) IN GENERAL.—Notwithstanding clause (i), a potentially responsible party that arranged for disposal or treatment of, arranged with a transporter for transport for disposal or treatment of, or accepted for transport for disposal or treatment, municipal solid waste or municipal sewage sludge and other material containing hazardous substances shall be eligible for the per-ton settlement rate provided in this subparagraph as to the municipal solid waste or municipal sewage sludge only, if the potentially responsible party demonstrates to the President's satisfaction the quantity of the municipal solid waste and municipal sewage sludge contributed by the party and the quantity and composition of the other material containing hazardous substances contributed by the party.

''(II) PARTIES ELIGIBLE FOR DE MICROMIS EXEMPTION.—If a potentially responsible party demonstrates to the President's satisfaction that, with respect to the material other than municipal solid waste or municipal sewage sludge contributed by the party, the party qualifies for the de micromis exemption under section 107(r), the party shall qualify for the per-ton settlement rate under clause (ii) with respect to its municipal solid waste and municipal sewage sludge in an expedited settlement under this paragraph.

''(III) PARTIES ELIGIBLE FOR EXPEDITED DE MINIMIS SETTLEMENT.—If a potentially responsible party demonstrates to the satisfaction of the President that, with respect to the material other than a municipal solid waste or municipal sewage sludge contributed by the party, the party qualifies for a de minimis settlement under subparagraph (B), the party shall qualify for the per-ton settlement rate under clause (ii) with respect to its municipal solid waste and municipal sewage sludge at the time that the party agrees to an expedited settlement under this paragraph with respect to its de minimis contribution of other material containing hazardous substances.

''(IV) OTHER PARTIES.—If a party does not make the demonstration under subclauses (II) and (III), the President shall offer to resolve the party's liability with respect to the municipal solid waste or municipal sewage sludge at the per-ton settlement rate under clause (ii) at such time as the party agrees to a settlement with respect to other material containing hazardous substances on terms and conditions acceptable to the President.

''(G) MUNICIPALITY WITH LIMITED ABILITY TO PAY.—

''(i) IN GENERAL.—The conditions stated in this subparagraph are that the potentially responsible party is a municipality and demonstrates to the President an inability or a limited ability to pay response costs.

''(ii) FACTORS.—The President shall consider the inability or limited ability to pay of a municipality to the extent that the municipality provides necessary information with respect to—

''(I) the general obligation bond rating and information about the most recent bond issue for which the rating was prepared;

''(II) the amount of total available funds (other than dedicated funds or State assistance payments for remediation of inactive hazardous waste sites);

''(III) the amount of total operating revenues (other than obligated or encumbered revenues);

''(IV) the amount of total expenses;

''(V) the amount of total debt and debt service;

''(VI) per capita income and cost of living;

''(VII) real property values;

''(VIII) unemployment information; and

''(IX) population information.

''(iii) EVALUATION OF IMPACT.—A municipality may also submit for consideration by the President an evaluation of the potential impact of the settlement on the provision of municipal services and the feasibility of making delayed payments or payments over a certain period of time.

''(iv) RISK OF DEFAULT OR VIOLATION.—A municipality may establish an inability to pay for purposes of this subparagraph through an affirmative showing that payment of its liability under this Act would—

''(I) create a substantial demonstrable risk that the municipality would default on debt obligations existing as of the time of the showing, be forced into bankruptcy, be forced to dissolve, or be forced to make budgetary cutbacks that would substantially reduce the level of protection of public health and safety; or

''(II) necessitate a violation of legal requirements or limitations of general applicability concerning the assumption and maintenance of fiscal municipal obligations.

''(v) OTHER FACTORS RELEVANT TO SETTLEMENTS WITH MUNICIPALITIES.—In determining an appropriate settlement amount with a municipality under this subparagraph, the President may consider other relevant factors, including the fair market value of any in-kind services that the municipality may provide to support the response action at the facility.

''(H) APPLICABILITY OF EXPEDITED SETTLEMENT REQUIREMENTS.—

''(i) IN GENERAL.—The requirements set forth in subparagraph (D) shall apply to settlements described in subparagraphs (F) and (G).

''(ii) OTHER REQUIREMENTS.—The requirements set forth in subparagraph (B)(ii) shall apply to settlements described in subparagraph (F)(i)(II).''.

TITLE IV—CLARIFICATION OF LIABILITY FOR RECYCLING TRANSACTIONS

SEC. 401. RECYCLING TRANSACTIONS.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) is amended by adding at the end the following:

''SEC. 127. RECYCLING TRANSACTIONS.

''(a) LIABILITY CLARIFICATION.—A person who arranged for recycling of recyclable material in accordance with this section shall not be liable under paragraph (3) or (4) of section 107(a) with respect to the material.

''(b) DEFINITION OF RECYCLABLE MATERIAL.—

''(1) IN GENERAL.—In this section, the term 'recyclable material' means scrap paper, scrap plastic, scrap glass, scrap textile, scrap rubber (other than whole tires), scrap metal, or spent lead-acid, spent nickel-cadmium, and other spent battery, as well as minor quantities of material incident to or adhering to the scrap material as a result of its normal and customary use prior to becoming scrap.

''(2) EXCLUSIONS.—The term 'recyclable material' does not include shipping containers of a capacity from 30 liters to 3,000 liters, whether intact or not, having any hazardous substance (but not metal bits and pieces or hazardous substances that form an integral part of the container) contained in or adhering to the containers.

''(c) TRANSACTIONS INVOLVING SCRAP PAPER, PLASTIC, GLASS, TEXTILES, OR RUBBER.—A transaction involving scrap paper, scrap plastic, scrap glass, scrap textile, or scrap rubber (other than whole tires) shall be considered to be arranging for recycling if the person who arranged for the transaction (by selling recyclable material or otherwise arranging for the recycling of recyclable material) demonstrates by a preponderance of the evidence that all of the following criteria were met at the time of the transaction:

''(1) The recyclable material met a commercial specification grade.

''(2) A market existed for the recyclable material.

''(3) A substantial portion of the recyclable material was made available for use as feedstock for the manufacture of a new saleable product.

''(4) The recyclable material is a replacement or substitute for a virgin raw material, or the product to be made from the recyclable material is a replacement or substitute for a product made, in whole or in part, from a virgin raw material.

''(5) In the case of a transaction occurring 90 days or more after the date of enactment of this section, the person exercised reasonable care to determine that the facility where the recyclable material was handled, processed, reclaimed, or otherwise managed by another person (referred to in this section as a 'consuming facility') was in compliance with substantive provisions of any Federal, State, or local environmental law (including a regulation, compliance order, or decree issued pursuant to the law) applicable to the handling, processing, reclamation, storage, or other management activities associated with recyclable material.

''(6) For purposes of this subsection, reasonable care shall be determined using criteria that include the following:

''(A) The price paid in the recycling transaction.

''(B) The ability of the person to detect the nature of the consuming facility's operations concerning its handling, processing, reclamation, or other management activities associated with recyclable material.

''(C) The result of inquiries made to appropriate Federal, State, or local environmental agencies regarding the consuming facility's past and current compliance with substantive provisions of any Federal, State, or local environmental law (including a regulation, compliance order, or decree issued pursuant to the law) applicable to the handling, processing, reclamation, storage, or other management activities associated with the recyclable material. For the purposes of this paragraph, a requirement to obtain a permit applicable to the handling, processing, reclamation, or other management activity associated with the recyclable materials shall be considered to be a substantive provision.

''(d) TRANSACTIONS INVOLVING SCRAP METAL.—

''(1) IN GENERAL.—A transaction involving scrap metal shall be considered to be arranging for recycling if the person who arranged for the transaction (by selling recyclable material or otherwise arranging for the recycling of recyclable material) demonstrates by a preponderance of the evidence that (at the time of the transaction) the person—

''(A) met the criteria set forth in subsection (c) with respect to the scrap metal;

''(B) was in compliance with any applicable regulations or standards regarding the storage, transport, management, or other activities associated with the recycling of scrap metal that the Administrator promulgates under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) subsequent to the date of enactment of this section and with regard to transactions occurring after the effective date of the regulations or standards; and

''(C) did not melt the scrap metal prior to the transaction.

''(2) THERMAL SEPARATION.—For purposes of paragraph (1)(C), melting of scrap metal does not include the thermal separation of 2 or more materials due to differences in their melting points.

''(3) DEFINITION OF SCRAP METAL.—In this subsection, the term 'scrap metal' means bits and pieces of a metal part (such as a bar, a turning, a rod, a sheet, and a wire) or a metal piece that may be combined together with bolts or soldering (resulting in items such as a radiator, scrap automobile, or railroad box car), which when worn or superfluous can be recycled, other than scrap metals that the Administrator excludes from this paragraph by regulation.

''(e) TRANSACTIONS INVOLVING BATTERIES.—A transaction involving a spent lead-acid battery, a spent nickel-cadmium battery, or other spent battery shall be considered to be arranging for recycling if the person who arranged for the transaction (by selling recyclable material or otherwise arranging for the recycling of recyclable material) demonstrates by a preponderance of the evidence that at the time of the transaction—

''(1) the person met the criteria set forth in subsection (c) with respect to the spent lead-acid battery, spent nickel-cadmium battery, or other spent battery, but the person did not recover the valuable components of such battery; and

''(2)(A) with respect to a transaction involving a lead-acid battery, the person was in compliance with applicable Federal environmental law (including regulations and standards), regarding the storage, transport, management, or other activities associated with the recycling of the battery;

''(B) with respect to a transaction involving a nickel-cadmium battery, the person was in compliance with applicable Federal environmental law (including regulations and standards) regarding the storage, transport, management, or other activities associated with the recycling of the battery; or

''(C) with respect to a transaction involving any other spent battery, the person was in compliance with applicable Federal environmental law (including regulations and standards) regarding the storage, transport, management, or other activities associated with the recycling of the battery.

''(f) EXCLUSIONS.—

''(1) IN GENERAL.—The exemptions set forth in subsections (c), (d), and (e) shall not apply if—

''(A) the person had an objectively reasonable basis to believe at the time of the recycling transaction that—

''(i) the recyclable material would not be recycled;

''(ii) the recyclable material would be burned as fuel, or for energy recovery or incineration; or

''(iii) for a transaction occurring before the date that is 90 days after the date of the enactment of this section, the consuming facility was not in compliance with a substantive provision of any Federal, State, or local environmental law (including a regulation, compliance order, or decree issued pursuant to the law), applicable to the handling, processing, reclamation, or other management activities associated with the recyclable material;

''(B) the person had reason to believe that hazardous substances had been added to the recyclable material for purposes other than processing for recycling;

''(C) the person failed to exercise reasonable care with respect to the management and handling of the recyclable material (including adhering to customary industry practices current at the time of the recycling transaction designed to minimize, through source control, contamination of the recyclable material by hazardous substances); or

''(D) with respect to any item of a recyclable material, the item contained polychlorinated biphenyls at a concentration in excess of 50 parts per million or any new standard promulgated pursuant to applicable Federal law.

''(2) OBJECTIVELY REASONABLE BASIS.—For purposes of this subsection, an objectively reasonable basis for belief shall be determined using criteria that include—

''(A) the size of the person's business;

''(B) customary industry practices (including customary industry practices current at the time of the recycling transaction designed to minimize, through source control, contamination of the recyclable material by hazardous substances);

''(C) the price paid in the recycling transaction; and

''(D) the ability of the person to detect the nature of the consuming facility's operations concerning its handling, processing, reclamation, or other management activities associated with the recyclable material.

''(3) PERMIT.—For purposes of this subsection, a requirement to obtain a permit applicable to the handling, processing, reclamation, or other management activities associated with recyclable material shall be considered to be a substantive provision.

''(g) EFFECT ON OTHER LIABILITY.—Nothing in this section affects the liability of a person with respect to materials that are not recyclable materials (as defined in subsection (b)) under paragraph (1), (2), (3), or (4).

''(h) REGULATIONS.—The Administrator has the authority, under section 115, to promulgate additional regulations concerning this section.

''(i) EFFECT ON PENDING OR CONCLUDED ACTIONS.—The exemptions provided under this section shall not affect any concluded judicial or administrative action or any pending judicial action initiated by the United States prior to the date of enactment of this section.

''(j) LIABILITY FOR ATTORNEY'S FEES FOR CERTAIN ACTIONS.—Any person who commences an action in contribution against a person who is not liable by operation of this section shall be liable to that person for all reasonable costs of defending that action, including all reasonable attorneys and expert witness fees.

''(k) RELATIONSHIP TO LIABILITY UNDER OTHER LAWS.—Nothing in this section affects—

''(1) liability under any other Federal, State, or local law (including a regulation), including any requirements promulgated by

the Administrator under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.); or

''(2) the ability of the Administrator to promulgate regulations under any other law, including the Solid Waste Disposal Act.''.

TITLE V—BROWNFIELDS CLEANUP

SEC. 501. BROWNFIELDS FUNDING.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) is amended by adding at the end the following:

''SEC. 128. BROWNFIELDS FUNDING FOR STATE AND LOCAL GOVERNMENTS.

''(a) BROWNFIELDS INVENTORY AND ASSESSMENT GRANT PROGRAM.—

''(1) ESTABLISHMENT.—The Administrator shall establish a program to award grants to States or local governments to inventory brownfield sites and to conduct site assessments of brownfield sites.

''(2) SCOPE OF PROGRAM.—

''(A) GRANT AWARDS.—To carry out this subsection, the Administrator may, on approval of an application, provide financial assistance to a State or local government.

''(B) GRANT APPLICATION PROCEDURE.—

''(i) IN GENERAL.—The Administrator shall establish a grant application procedure for this section.

''(ii) NATIONAL CONTINGENCY PLAN.—The Administrator may include in the procedure established under clause (i) requirements of the National Contingency Plan, to the extent that those requirements are relevant and appropriate to the program under this subsection.

''(C) GRANT APPLICATION.—An application for a grant under this subsection shall include, to the extent practicable, each of the following:

''(i) An identification of the brownfield sites for which assistance is sought and a description of the effect of the brownfield sites on the community, including a description of the nature and extent of any known or suspected environmental contamination within the areas in which eligible brownfield sites are situated.

''(ii) A description of the need of the applicant for financial assistance to inventory brownfield sites and conduct site assessments.

''(iii) A demonstration of the potential of the grant assistance to stimulate economic development, including the extent to which the assistance would stimulate the availability of other funds for site assessment, site identification, or environmental remediation and subsequent redevelopment of the areas in which eligible brownfield sites are situated.

''(iv) A description of the local commitment as of the date of the application, which shall include a community involvement plan that demonstrates meaningful community involvement.

''(v) A plan that demonstrates how the site assessment, site identification, or environmental remediation and subsequent development will be implemented, including—

''(I) an environmental plan that ensures the use of sound environmental procedures;

''(II) an explanation of the appropriate government authority and support for the project as in existence on the date of the application;

''(III) proposed funding mechanisms for any additional work; and

''(IV) a proposed land ownership plan.

''(vi) A statement describing the long-term benefits and the sustainability of the proposed project that includes—

''(I) the ability of the project to be replicated nationally and measures of success of the project; and

''(II) to the extent known, the potential of the plan for each area in which an eligible brownfield site is situated to stimulate economic development of the area on completion of the environmental remediation.

''(vii) Such other factors as the Administrator considers relevant to carry out this title.

''(D) APPROVAL OF APPLICATION.—

''(i) IN GENERAL.—In making a decision on whether to approve an application under subparagraph (A), the Administrator shall—

''(I) consider the need of the State or local government for financial assistance to carry out this subsection;

''(II) consider the ability of the applicant to carry out an inventory and site assessment under this subsection;

''(III) ensure a fair distribution of grant funds between urban and nonurban areas; and

''(IV) consider such other factors as the Administrator considers relevant to carry out this subsection.

''(ii) GRANT CONDITIONS.—As a condition of awarding a grant under this subsection, the Administrator may, on the basis of the criteria considered under clause (i), attach such conditions to the grant as the Administrator determines appropriate.

''(E) GRANT AMOUNT.—Subject to subparagraph (E), the amount of a grant awarded to any State or local government under this subsection for inventory and site assessment of 1 or more brownfield sites shall not exceed $200,000.

''(F) WAIVER.—The Administrator may waive the limitation on the amount of a grant under subparagraph (E) on the basis of the anticipated level of contamination, size, status of ownership, number of brownfield sites, or any other factor relating to the facility that the Administrator considers appropriate, taking into consideration the impact of the increase on the Administrator's ability to provide grants at other facilities.

''(G) TERMINATION OF GRANTS.—If the Administrator determines that a State or local government that receives a grant under this subsection is in violation of a condition of a grant referred to in subparagraph (D)(ii), the Administrator may terminate the grant made to the State or local government and require full or partial repayment of the grant.

''(b) GRANTS AND LOANS FOR CLEANUP OF BROWNFIELD SITES.—

''(1) ESTABLISHMENT.—The Administrator shall establish a program to award grants to—

''(A) State or local governments to capitalize revolving loan funds for the cleanup of brownfield sites; and

''(B) local governments that are not liable under section 107, in accordance with paragraph (3), for the purpose of cleaning up brownfield sites.

''(2) LOANS.—The loans may be provided by the State or local government to finance cleanups of brownfield sites by the State or local government, or by an owner or operator or a prospective purchaser of a brownfield site (including a local government) at which a cleanup is being conducted or is proposed to be conducted.

''(3) DETERMINATION.—In determining whether to award a grant under paragraph (1)(B), the Administrator shall consider, in addition to other requirements of this subsection—

''(A) the demonstrated financial need of the applicant for a grant, including whether the applicant would be financially able to repay a loan;

''(B) the extent to which the funds from the grant would be used for the creation or preservation of undeveloped space or for other nonprofit purposes; and

''(C) the benefits of a revolving loan program described in paragraph (1)(A) in promoting the long-term availability of funding for brownfields cleanups.

''(4) SCOPE OF PROGRAM.—

''(A) IN GENERAL.—

''(i) GRANTS.—In carrying out this subsection, the Administrator may award a grant to a State or local government that submits an application to the Administrator that is approved by the Administrator.

''(ii) USE OF GRANT.—The grant shall be used—

''(I) by the State or local government to capitalize a revolving loan fund to be used for cleanup of 1 or more brownfield sites; or

''(II) in the case of a grant under paragraph (1)(B), by the local government for cleanup of brownfield sites.

''(B) GRANT APPLICATION PROCEDURE.—

''(i) IN GENERAL.—The Administrator shall establish a grant application procedure for this subsection.

''(ii) INCLUSIONS.—The procedure established under clause (i)—

''(I) shall include criteria for grants under paragraph (1)(B); and

''(II) may include requirements of the National Contingency Plan, to the extent that those requirements are relevant and appropriate to the program under this subsection.

''(C) GRANT APPLICATION FOR REVOLVING LOAN FUNDS.—An application for a grant under this subsection to establish a revolving loan fund, shall be in such form as the Administrator determines appropriate, and shall include, at a minimum, the following:

''(i) Evidence that the grant applicant has the financial controls and resources to administer a revolving loan fund in accordance with this subsection.

''(ii) Provisions that—

''(I) ensure that the grant applicant has the ability to monitor the use of funds provided to loan recipients under this subsection; and

''(II) ensure that any cleanup conducted by the applicant is protective of human health and the environment.

''(iii) Identification of the criteria to be used by the State or local government in providing for loans under the program. The criteria shall include the financial standing of the applicants for the loans, the use to which the loans will be put, the provisions to be used to ensure repayment of the loan funds.

''(iv) A complete description of the financial standing of the applicant that includes a description of the assets, cash flow, and liabilities of the applicant.

''(v) A written statement that attests that the cleanup of the site would not occur without access to the revolving loan fund.

''(vi) The proposed method, and anticipated period of time required, to clean up the environmental contamination at the brownfield site.

''(vii) An estimate of the proposed total cost of the cleanup to be conducted at the brownfield site.

''(viii) An analysis that demonstrates the potential of the brownfield site for stimulating economic development or other beneficial use on completion of the cleanup of the brownfield site.

''(5) GRANT APPROVAL.—In determining whether to award a grant under this subsection, the Administrator shall consider, as applicable—

''(A) the need of the State or local government for financial assistance to clean up brownfield sites that are the subject of the application, taking into consideration the financial resources available to the State or local government;

''(B) the ability of the State or local government to ensure that the applicants repay the loans in a timely manner;

''(C) the extent to which the cleanup of the brownfield site or sites would reduce health and environmental risks caused by the release of contaminants at, or from, the brownfield site or sites;

''(D) the demonstrable potential of the brownfield site or sites for stimulating economic development on completion of the cleanup;

''(E) the demonstrated ability of the State or local government to administer such a loan program;

''(F) the demonstrated experience of the State or local government regarding brownfield sites and the reuse of contaminated land, including whether the government has received any grant under this Act to assess brownfield sites, except that applicants who have not previously received such a grant may be considered for awards under this subsection;

''(G) the efficiency of having the loan administered by the level of government represented by the applicant entity;

''(H) the experience of administering any loan programs by the entity, including the loan repayment rates;

''(I) the demonstrations made regarding the ability of the State or local government to ensure a fair distribution of grant funds among brownfield sites within the jurisdiction of the State or local government; and

''(J) such other factors as the Administrator considers relevant to carry out this subsection.

''(6) GRANT AMOUNT TO CAPITALIZE REVOLVING LOAN FUNDS.—

''(A) IN GENERAL.—Subject to subparagraph (B), the amount of a grant to capitalize a revolving loan fund made to a State or local applicant under this subsection shall not exceed $500,000.

''(B) WAIVER.—The Administrator may waive the limitation on the amount of a grant under subparagraph (A) on the basis of the anticipated level of contamination, size, status of ownership, number of brownfield sites, or any other factor relating to the facility that the Administrator considers appropriate, taking into consideration the impact of the increase on the Administrator's ability to provide grants at other facilities.

''(7) CLEANUP GRANT AMOUNT.—The amount of a grant made to a local applicant under paragraph (1)(B) shall not exceed $200,000.

''(8) GRANT APPROVAL.—Each application for a grant to capitalize a revolving loan fund under this subsection shall, as a condition of approval by the Administrator, include a written statement by the State or local government that cleanups to be funded under this subsection shall be conducted under the auspices of, and in compliance with—

''(A) the State voluntary cleanup program;

''(B) the State Superfund program; or

''(C) Federal law.

''(9) GRANT AGREEMENTS.—Each grant under this subsection shall be made under a grant agreement that shall include, at a minimum, provisions that ensure the following:

''(A) COMPLIANCE WITH LAW.—The grant recipient shall include in all loan agreements a requirement that the loan recipient shall comply with all laws applicable to the cleanup and shall ensure that the cleanup is protective of human health and the environment.

''(B) REPAYMENT.—For grants made under paragraph (1)(A), the State or local government shall require repayment of the loan consistent with this subsection.

''(C) USE OF FUNDS.—

''(i) REVOLVING GRANTS.—For grants made under paragraph (1)(A), the State or local government shall use the funds, including repayment of the principal and interest, solely for purposes of establishing and capitalizing a loan program in accordance with this subsection and of cleaning up the environmental contamination at the brownfield site or sites.

''(ii) CLEANUP GRANTS.—For grants made under paragraph (1)(B), the local government shall use the funds solely for the purpose of cleaning up the environmental contamination at the brownfield site or sites.

''(D) REPAYMENT OF FUNDS.—For grants made under paragraph (1)(A), the State or local government shall require in each loan agreement, and take necessary steps to ensure, that the loan recipient shall use the loan funds solely for the purposes stated in subparagraph (C), and shall require the return of any excess funds immediately on a determination by the appropriate State or local official that the cleanup has been completed.

''(E) NONTRANSFERABILITY.—For grants under paragraph (1)(A) or (1)(B), the loan funds shall not be transferable, unless the Administrator agrees to the transfer in writing.

''(F) LIENS.—

''(i) DEFINITIONS.—In this subparagraph, the terms 'security interest' and 'purchaser' have the meanings given the terms in section 6323(h) of the Internal Revenue Code of 1986.

''(ii) LIENS.—A lien in favor of the grant recipient shall arise on the contaminated property subject to a loan under this subsection.

''(iii) COVERAGE.—The lien shall cover all real property included in the legal description of the property at the time the loan agreement provided for in this subsection is signed, and all rights to the property, and shall continue until the terms and conditions of the loan agreement have been fully satisfied.

''(iv) TIMING.—The lien shall—

''(I) arise at the time a security interest is appropriately recorded in the real property records of the appropriate office of the State, county, or other governmental subdivision, as designated by State law, in which the real property subject to the lien is located; and

''(II) be subject to the rights of any purchaser, holder of a security interest, or judgment lien creditor whose interest is or has been perfected under applicable State law before the notice has been filed in the appropriate office of the State, county, or other governmental subdivision, as designated by State law, in which the real property subject to the lien is located.

''(G) OTHER CONDITIONS.—The State or local government shall comply with such other terms and conditions as the Administrator determines are necessary to protect the financial interests of the United States and to protect human health and the environment.

''(c) REPORTS.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and not later than January 31 of each of the 3 calendar years thereafter, the Administrator shall prepare and submit a report describing the results of each program established under this title to—

''(A) the Committee on Environment and Public Works of the Senate; and

''(B) the Committee on Commerce of the House of Representatives.

''(2) CONTENTS OF REPORT.—Each report shall, with respect to each of the programs established under this title, include a description of—

''(A) the number of applications received by the Administrator during the preceding calendar year;

''(B) the number of applications approved by the Administrator during the preceding calendar year; and

''(C) the allocation of assistance under subsections (a) and (b) among the States and local governments.

''(d) LIMITATIONS ON USE OF FUNDS.—

''(1) EXCLUDED FACILITIES.—A grant for site inventory and assessment under subsection (a) or to capitalize a revolving loan fund or conduct a cleanup under subsection (b) may not be used for any activity involving—

''(A) a facility that is the subject of a planned or an ongoing response action under this Act, except for a facility for which a preliminary assessment, site investigation, or removal action has been completed and with respect to which the Administrator has decided not to take further response action, including cost recovery action;

''(B) a facility included, or proposed for inclusion, on the National Priorities List maintained by the Administrator under this Act;

''(C) a facility with respect to which a record of decision, other than a no-action record of decision, has been issued by the President under section 104 with respect to the facility;

''(D) a facility that is subject to corrective action under section 3004(u) or 3008(h) of the Solid Waste Disposal Act (42 U.S.C. 6924(u), 6928(h)) to which a corrective action permit or order has been issued or modified to require the implementation of corrective measures;

''(E) any land disposal unit with respect to which a closure notification under subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.) has been submitted and closure requirements have been specified in a closure plan or permit;

''(F) a facility at which there has been a release of a polychlorinated biphenyl and that is subject to the Toxic Substances Control Act (15 U.S.C. 2601 et seq.);

''(G) a facility with respect to which an administrative or judicial order or a consent decree requiring cleanup has been issued or entered into by the President and is in effect under—

''(i) this Act;

''(ii) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.);

''(iii) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

''(iv) the Toxic Substances Control Act (15 U.S.C. 2601 et seq.); or

''(v) the Safe Drinking Water Act (42 U.S.C. 300f et seq.);

''(H) a facility at which assistance for response activities may be obtained under subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) from the Leaking Underground Storage Tank Trust Fund established by section 9508 of the Internal Revenue Code of 1986; and

''(I) a facility owned or operated by a department, agency, or instrumentality of the United States, except for land held in trust by the United States for an Indian tribe.

''(2) FACILITY GRANTS.—Notwithstanding paragraph (1), the President may, on a facility-by-facility basis, allow a grant under subsection (a) or (b) to be used for an activity involving any facility or portion of a facility listed in subparagraph (D), (E), (F), (G)(ii), (G)(iii), (G)(iv), (G)(v), or (H) of paragraph (1).

''(3) FINES AND COST-SHARING.—A grant made under this title may not be used to pay any fine or penalty owed to a State or the Federal Government, or to meet any Federal cost-sharing requirement.

''(4) OTHER LIMITATIONS.—

''(A) IN GENERAL.—Funds made available to a State or local government under the grant programs established under subsections (a) and (b) shall be used only to inventory and assess brownfield sites as authorized by this title and for capitalizing a revolving loan

fund or cleanup of a brownfield site as authorized by this title, respectively.

''(B) RESPONSIBILITY FOR CLEANUP ACTION.—Funds made available under this title may not be used to relieve a local government or State of the commitment or responsibilities of the local government or State under State law to assist or carry out cleanup actions at brownfield sites.

''(e) REGULATIONS.—

''(1) IN GENERAL.—The Administrator may issue such regulations as are necessary to carry out this section.

''(2) PROCEDURES AND STANDARDS.—The regulations shall include such procedures and standards as the Administrator considers necessary, including procedures and standards for evaluating an application for a grant or loan submitted under this section.

''(f) EFFECT ON OTHER LAWS.—Nothing in this title affects the liability or response authorities for environmental contamination under any other law (including any regulation), including—

''(1) this Act;

''(2) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.);

''(3) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

''(4) the Toxic Substances Control Act (15 U.S.C. 2601 et seq.); and

''(5) the Safe Drinking Water Act (42 U.S.C. 300f et seq.).''.

SEC. 502. RESEARCH, DEVELOPMENT, DEMONSTRATION, AND TRAINING.

(a) RESEARCH, DEVELOPMENT, DEMONSTRATION, AND TRAINING.—Section 311 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9660) is amended by striking subsection (c) and inserting the following:

''(c) HAZARDOUS SUBSTANCE RESEARCH, DEVELOPMENT, DEMONSTRATION, AND TRAINING.—

''(1) IN GENERAL.—The Administrator may conduct and, through grants, cooperative agreements, contracts, and the provision of technical assistance, may support, research, development, demonstration, and training relating to the detection, assessment, remediation, and evaluation of the effects on and risks to human health and the environment from hazardous substances.

''(2) ELIGIBILITY.—The Administrator may award grants and cooperative agreements, or contracts or provide technical assistance under this subsection to a State, Indian tribe, consortium of Indian tribes, interstate agency, political subdivision of a State, educational institution, or other agency or organization for the development and implementation of training, technology transfer, and information dissemination programs to strengthen environmental response activities, including enforcement, at the Federal, State, tribal and local levels.

''(3) REQUIREMENTS.—The Administrator may establish such requirements for grants and cooperative agreements under this subsection as the Administrator considers to be appropriate.''.

(b) TRAINING AND TECHNICAL ASSISTANCE.—Section 117 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9617) (as amended by section 203) is amended by adding at the end the following:

''(g) FINANCIAL ASSISTANCE FOR TRAINING.—The Administrator may provide training and technical assistance to individuals and organizations, as appropriate to—

''(1) inventory and conduct assessments and cleanups of brownfield sites; and

''(2) conduct response actions under this Act.''.

SEC. 503. STATE VOLUNTARY CLEANUP PROGRAMS.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) (as amended by section 501) is amended by adding at the end the following:

''SEC. 129. SUPPORT FOR STATE VOLUNTARY CLEANUP PROGRAMS.

''(a) EPA ASSISTANCE FOR STATES FOR STATE VOLUNTARY RESPONSE PROGRAMS.—The Administrator shall assist States to establish and administer State voluntary response programs that provide—

''(1) voluntary response actions that ensure adequate site assessment and are protective of human health and the environment;

''(2) opportunities for technical assistance (including grants) for voluntary response actions;

''(3) meaningful opportunities for public participation on issues that affect the community, which shall include prior notice and opportunity for comment in the selection of response actions and which may include involvement of State and local health officials during site assessment;

''(4) streamlined procedures to ensure expeditious voluntary response actions;

''(5) adequate oversight, enforcement authorities, resources, and practices to—

''(A) ensure that voluntary response actions are protective of human health and the environment, as provided in paragraph (1), and are conducted in a timely manner in accordance with a State-approved response action plan; and

''(B) ensure completion of response actions if the person conducting the response action fails or refuses to complete the necessary response activities that are protective of human health and the environment, including operation and maintenance or long-term monitoring activities;

''(6) mechanisms for the approval of a response action plan; and

''(7) mechanisms for a certification or similar documentation to the person that conducted the response action indicating that the response is complete.

''(b) GRANTS FOR DEVELOPMENT AND ENHANCEMENT OF STATE VOLUNTARY RESPONSE PROGRAMS AND REPORTING REQUIREMENT.—

''(1) GRANTS TO STATES.—The Administrator shall provide grants to States to develop or enhance State voluntary response programs described in subsection (a).

''(2) PUBLIC RECORD.—To assist the Administrator in determining the needs of States for assistance under this section, the Administrator shall encourage the States to maintain a public record of facilities, by name and location, that have been or are planned to be addressed under a State voluntary response program.

''(3) REPORTING REQUIREMENT.—Not later than the end of the first calendar year after the date of enactment of this section, and annually thereafter, each State that receives financial assistance under this section shall submit to the Administrator a report describing the progress of the voluntary response program of the State, including information, with respect to that calendar year, on—

''(A) the number of sites, if any, undergoing voluntary cleanup, including a separate description of the number of sites in each stage of voluntary cleanup;

''(B) the number of sites, if any, entering voluntary cleanup; and

''(C) the number of sites, if any, that received a certification from the State indicating that a response action is complete.''.

SEC. 504. AUDITS.

Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611) is amended by adding at the end the following:

''(q) AUDITS.—

''(1) IN GENERAL.—The Inspector General of the Environmental Protection Agency shall audit a portion of the grants awarded under section 129 to ensure that all funds are used in a manner that is consistent with that section.

''(2) FUTURE GRANTS.—The result of the audit shall be taken into account in awarding any future grants to the State or local government under that section.''.

TITLE VI—SETTLEMENT INCENTIVES

SEC. 601. FAIRNESS IN SETTLEMENTS.

Section 122 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9622) is amended by adding at the end the following:

''(n) FAIRNESS IN SETTLEMENTS.—

''(1) ASSISTANCE FOR CLEANUP SETTLEMENTS.—An agreement under subsection (a) may, in the discretion of the President, provide for payment of sums appropriated under section 111(s) to pay a portion of the response costs at a facility in accordance with section 122(b) where the President determines there are parties that are insolvent, defunct, or otherwise have a limited ability to pay, or based on other equitable considerations.

''(2) APPLICATION TOWARD CLEANUP SETTLEMENT OF SUMS RECOVERED IN OTHER SETTLEMENTS.—The President may enter into settlements under paragraphs (3), subparagraphs (B), (C), (F), and (G) of section 122(g)(1), and section 107(t) that include terms providing for the disposition of the proceeds of the settlements in a manner that is fair and reasonable, including, as appropriate, the placement of settlement proceeds in interest-bearing accounts to conduct or enable other persons to conduct response actions at the facility.

''(3) ADDITIONAL SETTLEMENTS BASED ON ABILITY TO PAY.—The President shall have the authority to evaluate the ability to pay of any potentially responsible party, and to enter into a settlement with the party based on that party's ability to pay.''.

TITLE VII—FUNDING

SEC. 701. AUTHORIZATION OF APPROPRIATIONS.

Section 111(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611(a)) is amended in the first sentence by striking ''$8,500,000,000 for the 5-year period beginning on the date of enactment of the Superfund Amendments and Reauthorization Act of 1986, and not more than $5,100,000,000 for the period commencing October 1, 1991, and ending September 30, 1994'' and inserting ''$7,500,000,000 for the period beginning October 1, 1999, and ending September 30, 2004''.

SEC. 702. FUNDING FOR CLEANUP SETTLEMENTS.

Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611) is amended—

(1) in subsection (a), by inserting after paragraph (6) the following:

''(7) FUNDING FOR CLEANUP SETTLEMENTS.—Payments toward cleanup settlements under subsection (r) and section 122(n)(1).''; and

(2) by adding at the end the following:

''(r) MANDATORY FUNDING.—

''(1) IN GENERAL.—Subject to paragraph (4), for the purpose of contributing under section 122(n)(1) to a cleanup settlement, there is made available for obligation from amounts in the Hazardous Substance Superfund for each of fiscal years 2000 through 2004, $200,000,000, to remain available until expended

''(2) EFFECT ON AUTHORITY.—Nothing in this paragraph affects the authority of the Administrator to forego recovery of past costs.

''(3) FISCAL YEAR FUNDS.—Except in fiscal year 2000, if the amounts made available under paragraph (1) available for a fiscal year have been obligated, up to ½ of the

amounts made available under paragraph (1) for the next fiscal year may be obligated.

''(4) CONDITION ON AVAILABILITY.—An amount under paragraph (1) may be made available for obligation for a fiscal year only if the total amount appropriated for the fiscal year under section 111(a) equals or exceeds $1,500,000,000.''.

SEC. 703. AGENCY FOR TOXIC SUBSTANCES AND DISEASE REGISTRY.

Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611) is amended by striking subsection (m) and inserting the following:

''(m) AGENCY FOR TOXIC SUBSTANCES AND DISEASE REGISTRY.—There shall be directly available to the Agency for Toxic Substances and Disease Registry to be used for the purpose of carrying out activities described in subsection (c)(4) and section 104(i) not less than $75,000,000 for each of fiscal years 2000 through 2004.''.

SEC. 704. BROWNFIELDS.

Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611) (as amended by section 702) is amended by adding at the end the following:

''(s) AUTHORIZATION OF APPROPRIATIONS.—

''(1) INVENTORY AND ASSESSMENT PROGRAM.—There is authorized to be appropriated to carry out section 128(a) $35,000,000 for each of fiscal years 2000 through 2004.

''(2) GRANTS FOR CLEANUP.—There is authorized to be appropriated to carry out section 128(b) $60,000,000 for each of fiscal years 2000 through 2004.

''(3) VOLUNTARY RESPONSE PROGRAMS.—There is authorized to be appropriated for assistance to States for voluntary response programs under section 129(b) $15,000,000 for each of the first 5 fiscal years beginning after the date of enactment of this section.

''(4) AVAILABILITY OF FUNDS.—The amounts appropriated under this subsection shall remain available until expended.''.

SEC. 705. AUTHORIZATION OF APPROPRIATIONS FROM GENERAL REVENUES.

Section 111(p) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611(p)) is amended by striking paragraph (1) and inserting the following:

''(1) IN GENERAL.—

''(A) AUTHORIZATION.—There are authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, to the Hazardous Substance Superfund, $250,000,000 for each of fiscal years 2000 through 2004.

''(B) APPROPRIATION IN SUBSEQUENT YEARS.—In addition to funds appropriated under subparagraph (A), there is authorized to be appropriated to the Hazardous Substance Superfund for each fiscal year described in subparagraph (A) an amount equal to so much of the aggregate amount authorized to be appropriated under subparagraph (A) as has not been appropriated for any previous fiscal year.''.

SEC. 706. WORKER TRAINING AND EDUCATION GRANTS.

Section 111(c)(12) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611(c)(12)) is amended—

(1) by striking ''$10,000,000'' and inserting ''$40,000,000''; and

(2) by striking ''each of fiscal years 1987,'' and all that follows through ''1994'' and inserting ''each of fiscal years 2000 through 2004''.

TITLE VIII—DEFINITIONS

SEC. 801. DEFINITIONS.

Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601) (as amended by section 101(c)) is amended by adding at the end the following:

''(40) BROWNFIELD SITE.—The term 'brownfield site' means a facility that has or is suspected of having environmental contamination that—

''(A) could prevent the timely use, development, reuse, or redevelopment of the facility; and

''(B) is relatively limited in scope or severity and can be comprehensively assessed and readily analyzed.

''(41) CONTAMINANT.—The term ''contaminant'', for purposes of section 128 and paragraph (44), includes any hazardous substance.

''(42) GRANT.—The term ''grant'' includes a cooperative agreement.

''(43) LOCAL GOVERNMENT.—The term ''local government'' has the meaning given the term ''unit of general local government'' in section 102(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)), except that the term includes an Indian tribe.

''(44) SITE ASSESSMENT.—

''(A) IN GENERAL.—The term ''site assessment'', for purposes of sections 128 and 129 and paragraph (35) means an investigation that determines the nature and extent of a release or potential release of a hazardous substance at a brownfield site and meets the requirements of subparagraph (B).

''(B) INVESTIGATION.—For the purposes of this paragraph, an investigation that meets the requirements of this subparagraph—

''(i) shall include—

''(I) an onsite evaluation; and

''(II) sufficient testing, sampling, and other field-data-gathering activities to accurately determine whether the brownfield site is contaminated and the threats to human health and the environment posed by the release of contaminants at the brownfield site; and

''(ii) may include—

''(I) review of such information regarding the brownfield site and previous uses as is available at the time of the review; and

''(II) an offsite evaluation, if appropriate.

''(45) MUNICIPAL SOLID WASTE.—

''(A) IN GENERAL.—The term 'municipal solid waste' means—

''(i) waste material generated by a household (including a single or multifamily residence); and

''(ii) waste material generated by a commercial, institutional, or industrial source, to the extent that the waste material—

''(I) is essentially the same as waste normally generated by a household; or

''(II) is collected and disposed of with other municipal solid waste or municipal sewage sludge as part of normal municipal solid waste collection services, and, with respect to each source from which the waste material is collected, qualifies for a de micromis exemption under section 107(r).

''(B) EXAMPLES.—Examples of municipal solid waste under subparagraph (A) include food and yard waste, paper, clothing, appliances, consumer product packaging, disposable diapers, office supplies, cosmetics, glass and metal food containers, elementary or secondary school science laboratory waste, and household hazardous waste.

''(C) EXCLUSIONS.—The term 'municipal solid waste' does not include—

''(i) combustion ash generated by resource recovery facilities or municipal incinerators; or

''(ii) waste material from manufacturing or processing (including pollution control) operations that is not essentially the same as waste normally generated by households.

''(46) MUNICIPALITY.—

''(A) IN GENERAL.—The term 'municipality' means a political subdivision of a State.

''(B) INCLUSIONS.—The term 'municipality' includes—

''(i) a city, county, village, town, township, borough, parish, school, school district, sanitation district, water district, or other public entity performing local governmental functions; and

''(ii) a natural person acting in the capacity of an official, employee, or agent of a political subdivision of a State or an entity described in clause (i) in the performance of governmental functions.

''(47) OWNER, OPERATOR, OR LESSEE OF RESIDENTIAL PROPERTY.—

''(A) IN GENERAL.—The term 'owner, operator, or lessee of residential property' means a person that—

''(i) owns, operates, manages, or leases residential property; and

''(ii) uses or allows the use of the residential property exclusively for residential purposes.

''(B) RESIDENTIAL PROPERTY.—For the purposes of subparagraph (A) the term 'residential property' means a single or multifamily residence (including incidental accessory land, buildings, or improvements) that is used exclusively for residential purposes.

''(48) SMALL NONPROFIT ORGANIZATION.—The term 'small nonprofit organization' means an organization that, at the time of disposal—

''(A) did not distribute any part of its income or profit to its members, directors, or officers;

''(B) employed not more than 100 paid individuals at the chapter, office, or department disposing of the waste; and

''(C) was an organization described in section 501(c) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of the Internal Revenue Code of 1986.

''(49) AFFILIATE; AFFILIATED.—The terms 'affiliate' and 'affiliated' have the meanings that those terms have in section 121.103 of title 13, Code of Federal Regulations (or any successor regulation).

''(50) MUNICIPAL SEWAGE SLUDGE.—The term 'municipal sewage sludge' means solid, semisolid, or liquid residue removed during the treatment of municipal wastewater, domestic sewage, or other wastewater at or by publicly owned or federally owned treatment works.''.

S. 1105—SUMMARY

1. BROWNFIELDS LIABILITY RELIEF

Finality for Buyers (limitation on liability for prospective purchasers).

Finality for Owners and Sellers (liability relief for innocent landowners and contiguous property owners).

2. BROWNFIELDS FUNDING

Grants to municipalities, states and tribes to assess conditions at brownfields sites.

Grants to municipalities, states and tribes to capitalize revolving loan funds for cleanup of brownfields sites.

Grants to states to develop and enhance state voluntary cleanup programs.

3. SMALL BUSINESS LIABILITY RELIEF

Liability exemptions:

De micromis (generators and transporters that send less than 110 gallons of liquid material or less than 200 pounds of solid material, or different amount determined by the Administrator on a site-specific basis).

Generators and transporters of municipal solid waste who are small businesses, residential homeowners or small non-profits.

Expedited settlement:

De Minimis (presumed to be 1% or less of waste at site).

Limited ability to pay.

4. CLARIFICATION OF LIABILITY FOR RECYCLING TRANSACTIONS

Exemption for generators and transporters of recyclable material, as provided in the Lott/Daschle bill in the 105th, and endorsed buy ISRI, environmental groups, the Administration and others.

5. RELIEF FOR GENERATORS AND TRANSPORTERS OF MUNICIPAL WASTE AND FOR MUNICIPAL OWNERS OF LANDFILLS

Cap on liability of generators and transporters of municipal solid waste and sewage sludge, and of municipalities that own or operate municipal landfills on the NPL, per EPA 1998 policy that was negotiated with and has the support of several municipal representatives (including National Association of Counties, National League of Cities): expedited settlement based on dollar per ton limits, for generators and transporters; percentage of total costs cap for owners and operators.

6. FUNDING

Authorization levels consistent with recent years and, consistent with past, majority of funding from the Superfund trust fund, with $250 million from general revenues.

EPA continue to provide orphan funding as incentive for parties to enter into cleanup settlements.

By Mr. TORRICELLI (for himself and Ms. SNOWE):

S. 1106. A bill to amend the Public Health Service Act and Employee Retirement Income Security Act of 1974 to require that group and individual health insurance coverage and group health plans provide coverage for qualified individuals for bone mass measurement (bone density testing) to prevent fractures associated with osteoporosis; to the Committee on Health, Education, Labor, and Pensions.

EARLY DETECTION AND PREVENTION OF OSTEOPOROSIS AND RELATED BONE DISEASES ACT OF 1999

Mr. TORRICELLI. Mr. President, I rise today to introduce the Early Detection and Prevention of Osteoporosis and Related Bone Diseases Act of 1999 along with my colleague from Maine, Senator SNOWE.

Osteoporosis and other related bone diseases pose a major public health threat. More than 28 million Americans, 80 percent of whom are women, suffer from, or are at risk for, osteoporosis. Between three and four million Americans suffer from related bone diseases like Paget's disease or osteogenesis imperfecta. Today, in the United States, 10 million individuals already have osteoporosis and 18 million more have low bone mass, placing them at increased risk.

Osteoporosis is often called the ''silent disease'' because bone loss occurs without symptoms. People often do not know they have osteoporosis until their bones become so weak that a sudden bump or fall causes a fracture or a vertebra to collapse. Every year, there are 1.5 million bone fractures caused by osteoporosis. Half of all women, and one-eighth of all men, age 50 or older, will suffer a bone fracture due to osteoporosis.

Osteoporosis is a progressive condition that has no known cure; thus, prevention and treatment are key. The Early Detection and Prevention of Osteoporosis and Related Bone Diseases Act of 1999 seeks to combat osteoporosis, and related bone diseases like Paget's disease by requiring private health plans to cover bone mass measurement tests for qualified individuals who are at risk for developing osteoporosis.

Bone mass measurement is the only reliable method of detecting osteoporosis in its early stages. The test is non-invasive and painless and is as predictive of future fractures as high cholesterol or high blood pressure is of heart disease or stroke. This provision is similar to a provision in the Balanced Budget Act of 1997 that requires Medicare coverage of bone mass measurements.

Medical experts agree that osteoporosis is preventable. Thus, if the toll of osteoporosis and other related bone diseases is to be reduced, the commitment to prevention and treatment must be significantly increased.

Last year, Congress reauthorized the Women's Health Research and Prevention Act. This legislation authorized $3 million for a national resource center to increase public knowledge and awareness of osteoporosis, and $40 million for osteoporosis research at the National Institutes of Health (NIH). This was an important first step in the fight against osteoporosis. Congress must now maintain its commitment to prevention by ensuring women have access to bone mass measurement tests.

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. 1106

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 ''Early Detection and Prevention of Osteoporosis and Related Bone Diseases Act of 1999''.

(b) FINDINGS.—Congress makes the following findings:

(1) NATURE OF OSTEOPOROSIS.—

(A) Osteoporosis is a disease characterized by low bone mass and structural deterioration of bone tissue leading to bone fragility and increased susceptibility to fractures of the hip, spine, and wrist.

(B) Osteoporosis has no symptoms and typically remains undiagnosed until a fracture occurs.

(C) Once a fracture occurs, the condition has usually advanced to the stage where the likelihood is high that another fracture will occur.

(D) There is no cure for osteoporosis, but drug therapy has been shown to reduce new hip and spine fractures by 50 percent and other treatments, such as nutrition therapy, have also proven effective.

(2) INCIDENCE OF OSTEOPOROSIS AND RELATED BONE DISEASES.—

(A) 28 million Americans have (or are at risk for) osteoporosis, 80 percent of which are women.

(B) Osteoporosis is responsible for 1.5 million bone fractures annually, including more than 300,000 hip fractures, 700,000 vertebral fractures and 200,000 fractures of the wrists.

(C) Half of all women, and one-eighth of all men, age 50 or older will have a bone fracture due to osteoporosis.

(D) Between 3 and 4 million Americans have Paget's disease, osteogenesis imperfecta, hyperparathyroidism, and other related metabolic bone diseases.

(3) IMPACT OF OSTEOPOROSIS.—The cost of treating osteoporosis is significant:

(A) The annual cost of osteoporosis in the United States is $13.8 billion and is expected to increase precipitously because the proportion of the population comprised of older persons is expanding and each generation of older persons tends to have a higher incidence of osteoporosis than preceding generations.

(B) The average cost in the United States of repairing a hip fracture due to osteoporosis is $32,000.

(C) Fractures due to osteoporosis frequently result in disability and institutionalization of individuals.

(D) Because osteoporosis is a progressive condition causing fractures primarily in aging individuals, preventing fractures, particularly for post menopausal women before they become eligible for medicare, has a significant potential of reducing osteoporosis-related costs under the medicare program.

(4) USE OF BONE MASS MEASUREMENT.—

(A) Bone mass measurement is the only reliable method of detecting osteoporosis at an early stage.

(B) Low bone mass is as predictive of future fractures as is high cholesterol or high blood pressure of heart disease or stroke.

(C) Bone mass measurement is a non-invasive, painless, and reliable way to diagnose osteoporosis before costly fractures occur.

(D) Under section 4106 of the Balanced Budget Act of 1997, Medicare provides coverage, effective July 1, 1999, for bone mass measurement for qualified individuals who are at risk of developing osteoporosis.

(5) RESEARCH ON OSTEOPOROSIS AND RELATED BONE DISEASES.—

(A) Technology now exists, and new technology is developing, that will permit the early diagnosis and prevention of osteoporosis and related bone diseases as well as management of these conditions once they develop.

(B) Funding for research on osteoporosis and related bone diseases is severely constrained at key research institutes, including the National Institute of Arthritis and Musculoskeletal and Skin Diseases, the National Institute on Aging, the National Institute of Diabetics and Digestive and Kidney Diseases, the National Institute of Dental Research, and the National Institute of Child Health and Human Development.

(C) Further research is needed to improve medical knowledge concerning—

(i) cellular mechanisms related to the processes of bone resorption and bone formation, and the effect of different agents on bone remodeling;

(ii) risk factors for osteoporosis, including newly discovered risk factors, risk factors related to groups not ordinarily studied (such as men and minorities), risk factors related to genes that help to control skeletal metabolism, and risk factors relating to the relationship of aging processes to the development of osteoporosis;

(iii) bone mass measurement technology, including more widespread and cost-effective techniques for making more precise measurements and for interpreting measurements;

(iv) calcium (including bioavailability, intake requirements, and the role of calcium in building heavier and denser skeletons), and vitamin D and its role as an essential vitamin in adults;

(v) prevention and treatment, including the efficacy of current therapies, alternative drug therapies for prevention and treatment, and the role of exercise; and

(vi) rehabilitation.

(D) Further educational efforts are needed to increase public and professional knowledge of the causes of, methods for avoiding, and treatment of osteoporosis.

SEC. 2. REQUIRING COVERAGE OF BONE MASS MEASUREMENT UNDER HEALTH PLANS.

(a) GROUP HEALTH PLANS.—

(1) PUBLIC HEALTH SERVICE ACT AMENDMENTS.—

(A) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act (42 U.S.C. 300gg-4) is amended by adding at the end the following new section:

"SEC. 2707. STANDARDS RELATING TO BENEFITS FOR BONE MASS MEASUREMENT.

''(a) REQUIREMENTS FOR COVERAGE OF BONE MASS MEASUREMENT.—A group health plan, and a health insurance issuer offering group health insurance coverage, shall include (consistent with this section) coverage for bone mass measurement for beneficiaries and participants who are qualified individuals.

''(b) DEFINITIONS RELATING TO COVERAGE.—In this section:

''(1) BONE MASS MEASUREMENT.—The term 'bone mass measurement' means a radiologic or radioisotopic procedure or other procedure approved by the Food and Drug Administration performed on an individual for the purpose of identifying bone mass or detecting bone loss or determining bone quality, and includes a physician's interpretation of the results of the procedure. Nothing in this paragraph shall be construed as requiring a bone mass measurement to be conducted in a particular type of facility or to prevent such a measurement from being conducted through the use of mobile facilities that are otherwise qualified.

''(2) QUALIFIED INDIVIDUAL.—The term 'qualified individual' means an individual who—

''(A) is an estrogen-deficient woman at clinical risk for osteoporosis;

''(B) has vertebral abnormalities;

''(C) is receiving chemotherapy or long-term gluococorticoid (steroid) therapy;

''(D) has primary hyperparathyroidism, hyperthyroidism, or excess thyroid replacement;

''(E) is being monitored to assess the response to or efficacy of approved osteoporosis drug therapy;

''(F) is a man with a low trauma fracture; or

''(G) the Secretary determines is eligible.

''(c) LIMITATION ON FREQUENCY REQUIRED.—Taking into account the standards established under section 1861(rr)(3) of the Social Security Act, the Secretary shall establish standards regarding the frequency with which a qualified individual shall be eligible to be provided benefits for bone mass measurement under this section. The Secretary may vary such standards based on the clinical and risk-related characteristics of qualified individuals.

''(d) RESTRICTIONS ON COST-SHARING.—

''(1) IN GENERAL.—Subject to paragraph (2), nothing in this section shall be construed as preventing a group health plan or issuer from imposing deductibles, coinsurance, or other cost-sharing in relation to bone mass measurement under the plan (or health insurance coverage offered in connection with a plan).

''(2) LIMITATION.—Deductibles, coinsurance, and other cost-sharing or other limitations for bone mass measurement may not be imposed under paragraph (1) to the extent they exceed the deductibles, coinsurance, and limitations that are applied to similar services under the group health plan or health insurance coverage.

''(e) PROHIBITIONS.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, may not—

''(1) deny to an individual eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan, solely for the purpose of avoiding the requirements of this section;

''(2) provide incentives (monetary or otherwise) to individuals to encourage such individuals not to be provided bone mass measurements to which they are entitled under this section or to providers to induce such providers not to provide such measurements to qualified individuals;

''(3) prohibit a provider from discussing with a patient osteoporosis preventive techniques or medical treatment options relating to this section; or

''(4) penalize or otherwise reduce or limit the reimbursement of a provider because such provider provided bone mass measurements to a qualified individual in accordance with this section.

''(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require an individual who is a participant or beneficiary to undergo bone mass measurement.

''(g) NOTICE.—A group health plan under this part shall comply with the notice requirement under section 714(g) of the Employee Retirement Income Security Act of 1974 with respect to the requirements of this section as if such section applied to such plan.

''(h) LEVEL AND TYPE OF REIMBURSEMENTS.—Nothing in this section shall be construed to prevent a group health plan or a health insurance issuer offering group health insurance coverage from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

''(i) PREEMPTION.—

''(1) IN GENERAL.—The provisions of this section do not preempt State law relating to health insurance coverage to the extent such State law provides greater benefits with respect to osteoporosis detection or prevention.

''(2) CONSTRUCTION.—Section 2723(a)(1) shall not be construed as superseding a State law described in paragraph (1).''.

(B) CONFORMING AMENDMENT.—Section 2723(c) of such Act (42 U.S.C. 300gg–23(c)) is amended by striking ''section 2704'' and inserting ''sections 2704 and 2707''.

(2) ERISA AMENDMENTS.—

(A) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is amended by adding at the end the following new section:

"SEC. 714. STANDARDS RELATING TO BENEFITS FOR BONE MASS MEASUREMENT.

''(a) REQUIREMENTS FOR COVERAGE OF BONE MASS MEASUREMENT.—A group health plan, and a health insurance issuer offering group health insurance coverage, shall include (consistent with this section) coverage for bone mass measurement for beneficiaries and participants who are qualified individuals.

''(b) DEFINITIONS RELATING TO COVERAGE.—In this section:

''(1) BONE MASS MEASUREMENT.—The term 'bone mass measurement' means a radiologic or radioisotopic procedure or other procedure approved by the Food and Drug Administration performed on an individual for the purpose of identifying bone mass or detecting bone loss or determining bone quality, and includes a physician's interpretation of the results of the procedure. Nothing in this paragraph shall be construed as requiring a bone mass measurement to be conducted in a particular type of facility or to prevent such a measurement from being conducted through the use of mobile facilities that are otherwise qualified.

''(2) QUALIFIED INDIVIDUAL.—The term 'qualified individual' means an individual who—

''(A) is an estrogen-deficient woman at clinical risk for osteoporosis;

''(B) has vertebral abnormalities;

''(C) is receiving chemotherapy or long-term gluococorticoid (steroid) therapy;

''(D) has primary hyperparathyroidism, hyperthyroidism, or excess thyroid replacement;

''(E) is being monitored to assess the response to or efficacy of approved osteoporosis drug therapy;

''(F) is a man with a low trauma fracture; or

''(G) the Secretary determines is eligible.

''(c) LIMITATION ON FREQUENCY REQUIRED.—The standards established under section 2707(c) of the Public Health Service Act shall apply to benefits provided under this section in the same manner as they apply to benefits provided under section 2707 of such Act.

''(d) RESTRICTIONS ON COST-SHARING.—

''(1) IN GENERAL.—Subject to paragraph (2), nothing in this section shall be construed as preventing a group health plan or issuer from imposing deductibles, coinsurance, or other cost-sharing in relation to bone mass measurement under the plan (or health insurance coverage offered in connection with a plan).

''(2) LIMITATION.—Deductibles, coinsurance, and other cost-sharing or other limitations for bone mass measurement may not be imposed under paragraph (1) to the extent they exceed the deductibles, coinsurance, and limitations that are applied to similar services under the group health plan or health insurance coverage.

''(e) PROHIBITIONS.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, may not—

''(1) deny to an individual eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan, solely for the purpose of avoiding the requirements of this section;

''(2) provide incentives (monetary or otherwise) to individuals to encourage such individuals not to be provided bone mass measurements to which they are entitled under this section or to providers to induce such providers not to provide such measurements to qualified individuals;

''(3) prohibit a provider from discussing with a patient osteoporosis preventive techniques or medical treatment options relating to this section; or

''(4) penalize or otherwise reduce or limit the reimbursement of a provider because such provider provided bone mass measurements to a qualified individual in accordance with this section.

''(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require an individual who is a participant or beneficiary to undergo bone mass measurement.

''(g) NOTICE UNDER GROUP HEALTH PLAN.—The imposition of the requirements of this section shall be treated as a material modification in the terms of the plan described in section 102(a)(1), for purposes of assuring notice of such requirements under the plan; except that the summary description required

to be provided under the last sentence of section 104(b)(1) with respect to such modification shall be provided by not later than 60 days after the first day of the first plan year in which such requirements apply.

''(h) PREEMPTION.—

''(1) IN GENERAL.—The provisions of this section do not preempt State law relating to health insurance coverage to the extent such State law provides greater benefits with respect to osteoporosis detection or prevention.

''(2) CONSTRUCTION.—Section 731(a)(1) shall not be construed as superseding a State law described in paragraph (1).''.

(B) CONFORMING AMENDMENTS.—

(i) Section 731(c) of such Act (29 U.S.C. 1191(c)), as amended by section 603(b)(1) of Public Law 104–204, is amended by striking ''section 711'' and inserting ''sections 711 and 714''.

(ii) Section 732(a) of such Act (29 U.S.C. 1191a(a)), as amended by section 603(b)(2) of Public Law 104–204, is amended by striking ''section 711'' and inserting ''sections 711 and 714''.

(iii) The table of contents in section 1 of such Act is amended by inserting after the item relating to section 713 the following new item:

''Sec. 714. Standards relating to benefits for bone mass measurement.

(b) INDIVIDUAL HEALTH INSURANCE.—

(1) IN GENERAL.—Part B of title XXVII of the Public Health Service Act is amended by inserting after section 2752 (42 U.S.C. 300gg-52) the following new section:

''SEC. 27530. STANDARDS RELATING TO BENEFITS FOR BONE MASS MEASUREMENT.

''(a) IN GENERAL.—The provisions of section 2707 (other than subsection (g)) shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as it applies to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the small or large group market.

''(b) NOTICE.—A health insurance issuer under this part shall comply with the notice requirement under section 714(g) of the Employee Retirement Income Security Act of 1974 with respect to the requirements referred to in subsection (a) as if such section applied to such issuer and such issuer were a group health plan.

''(c) PREEMPTION.—

''(1) IN GENERAL.—The provisions of this section do not preempt State law relating to health insurance coverage to the extent such State law provides greater benefits with respect to osteoporosis detection or prevention.

''(2) CONSTRUCTION.—Section 2762(a) shall not be construed as superseding a State law described in paragraph (1).''.

(2) CONFORMING AMENDMENTS.—Section 2762(b)(2) of such Act (42 U.S.C. 300gg–62(b)(2)), as added by section 605(b)(3)(B) of Public Law 104–204, is amended by striking ''section 2751'' and inserting ''sections 2751 and 2753''.

(c) EFFECTIVE DATES.—

(1) GROUP HEALTH PLANS.—The amendments made by subsection (a) shall apply with respect to group health plans for plan years beginning on or after January 1, 2000.

(2) INDIVIDUAL MARKET.—The amendments made by subsection (b) shall apply with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after such date.

By Mr. WARNER:

S. 1107. A bill to reform the conduct of Federal elections; to the Committee on Rules and Administration.

CONSTITUTIONAL AND EFFECTIVE REFORM OF CAMPAIGNS ACT OF 1999

Mr. WARNER. Mr. President, today I introduce the Constitutional and Effective Reform of Campaigns Act, or ''CERCA'', which I first introduced during the 105th Congress. This legislation is the product of two years of hearings during my Chairmanship of the Rules Committee, discussions with numerous experts, party officials, and candidates, and nearly two decades of participating in campaigns and campaign finance debates in the Senate. Many of the proposals in this bill have been made in some form by several of my Senate colleagues and by Members of the House, and I readily acknowledge drawing on their expertise. The important discussions last Congress during the meetings of a task force headed by Senator NICKLES, at the request of Majority Leader LOTT, were invaluable.

This legislation offers an opportunity for bipartisan support. It is a good faith effort to strike middle ground between those who believe public financing of campaigns is the solution, and those who believe the solution is to remove current regulations. It offers a package of proposals which realistically can be achieved with bipartisan support and meet the desire of the majority of Americans who believe that our present system can be reformed. In my judgment, we will not succeed with any measure of campaign reform in this complicated field without a bipartisan consensus.

In drafting this legislation, I began with four premises. First, all provisions had to be consistent with the First Amendment: Congress would be acting in bad faith to adopt provisions which have a likelihood of being struck down by the federal courts. Second, I oppose public financing and mandating ''free'' or reduced-cost media time which in my mind is neither free nor a good policy idea. Why should seekers of federal office get free time, while candidates for state office or local office—from governors to local sheriffs—do not receive comparable free benefits? Such an inequity and imbalance will breed friction between federal and state office seekers. Third, I believe we should try to increase the role of citizens and the political parties. Fourth, any framework of campaign reform legislation must respect and protect the constitutional right of individuals, groups, and organizations to participate in advocacy concerning political issues.

This bill is designed to be a ''bilateral disarmament'' on the tough issues of soft money and union dues: each side must give up equivalent ground. The Republicans should give ground by placing a cap on soft money which has tended to favor our side. And Democrats should give ground by allowing union members to decide voluntarily for themselves whether to contribute the portion of dues which goes to political contributions or activities.

Specifically, on the issue of soft money, no reform can be considered true reform without placing limits on the corporate and union donations to the national political parties. This bill places a $100,000 cap on such donations. While this provision addresses the public's legitimate concern over the propriety of these large donations, it allows the political parties sufficient funds to maintain their headquarters and conduct their grassroots efforts. In addition, the current limits on ''hard'' contributions must be updated. The ability of citizens to contribute voluntarily to a wide range of candidates and to their parties is fundamental.

At the same time, the practice of mandatory union dues going to partisan politics without union members' consent must end: it is counter to all the political freedoms that make America a true democracy. The concept of ''paycheck protection'' must be included in any campaign finance reform, so that these deductions are voluntary, whether these dues fund direct contributions to candidates or parties, or pay for undisclosed spending on phone banks, get-out-the-vote efforts, literature, and television ads.

Under this legislation, unions would be required to obtain advance, written consent before deducting money for political activities from union members' paychecks. The present state of the law requires most union workers to give up their rights to participate in the union if they seek refunds of that portion of dues going to politics. In addition, this section would strengthen the reporting requirements for unions engaged in political activities and enhance an aggrieved union member's right to challenge a union's determination of the portion of dues going to political activities.

In the Senate debates thus far, there has been much discussion about whether corporations should be required to obtain shareholder approval to make political contributions. This is an issue which warrants consideration. My proposal not only limits these corporate and union contributions to $100,000, it also includes a requirement that companies disclose their donations to federal political parties in their annual reports. And under current policies of the Securities and Exchange Commission, shareholders have the same rights to make recommendations to boards of directors on the propriety of political donations as they do on any business issue related to the company.

In addition, the SEC is in the process of making it easier for shareholders to raise questions related to social policy matters at annual meetings. I am monitoring how these changes are implemented: if they are insufficient to guarantee adequate rights to shareholders, I will consider amending my bill to protect these rights.

As an aside, I reject the notion that the status of union members is similar to those who belong to groups such as the National Rifle Association or the Sierra Club. Nobody is compelled to join these types of organizations, and

those that do, know or should know that their dues are going in part to political causes.

Furthermore, I considered including in this bill a narrowly-tailored disclosure requirement for individuals and groups spending large sums on public advertising affecting the public image of candidates during election seasons. However, in keeping with my first basic premise that reforms must pass the federal court test of constitutionality, I concluded that such a provision, in view of a long line of Supreme Court cases, likely would be declared unconstitutional, and thus I did not include the provision.

The McCain-FEINGOLD bill was thoroughly debated in the Senate, and any objective observer of the Senate would agree that we are genuinely deadlocked. This body needs to move beyond the debate of McCain-Feingold. I hope that all Members will review my bill as an objective and pragmatic approach to current problems with our campaign system. I encourage other Members to come forward, as I have, with proposals which objectively represent pragmatic approaches to what can be achieved. I do not claim to have the only solution: those with other ideas should come forward.

In addition to the issues of soft money and union dues discussed above, nine other fundamental problems—all of which can be solved in a constitutional manner—are the most pressing. Here are these problems, in no particular order, and my proposed solutions:

Problem 1: Politicians spend too much time fundraising, at the expense of their legislative duties for incumbents, and, for both incumbents and challengers, at the expense of debating the issues with voters.

Solution: The current individual contribution limit of $1,000 has not been raised, or even indexed for inflation, for over 20 years. This fact requires that candidates must spend more and more time seeking more and more donors. The limit should be doubled, as well as indexed for inflation.

Problem 2: The influence of voters on campaigns has been diminished by the activities of political action committees and interest groups.

Solutions: I propose a $100 tax credit for contributions made by citizens, with incomes under specified levels, to Senate and House candidates in their states: this credit should spark an influx of small dollar contributions to balance the greater ability of citizens with higher incomes to participate.

In addition, the increased individual contribution limit should balance the activities of political action committees.

Problem 3: The influence of voters on campaigns has been diminished by contributions from those not eligible to vote.

Solution: If you are not eligible to vote, you should not contribute to campaigns. My bill would prohibit contributions by those ineligible to vote, including non-citizens, children, and persons under felony convictions. It also codifies current regulations concerning political donations by domestic subsidiaries of foreign companies.

Problem 4: Compared to incumbents, challengers face greater difficulties raising funds and communicating with voters, particularly at the outset of a campaign.

Solutions: This legislation will allow candidates to receive ''seed money'' contributions of up to $10,000 from individuals and political action committees. This provision should help get candidacies off the ground. The total amount of these ''seed money'' contributions could not exceed $100,000 for House candidates or $300,000 for Senate candidates. To meet the constitutional test, this provision would apply to both challengers and incumbents alike, but in the case of an incumbent with money carried over from a prior cycle, those funds would count against the seed money limit.

Second, Senate incumbents would be barred from using the franking privilege to send out mass mailings during the election year, rather than the sixty day ban in current law.

Problem 5: Candidates with personal wealth have a distinct advantage through their constitutional right to spend their own funds.

Solution: If a candidate spends more than $25,000 of his or her own money, the individual contribution limits would be raised to $10,000 so that candidates could raise money to counter that personal spending. Again, to meet constitutional review, this provision would apply to all candidates.

Problem 6: Current laws prohibiting fundraising activities on federal property are weak and insufficient.

Solution: The current ban on fundraising on federal property was written before the law created such terms as ''hard'' and ''soft'' money. This bill updates this law to require that no fundraising take place on federal property.

Problem 7: Reporting requirements and public access to disclosure statements are weak and inadequate.

Solutions: Under this proposal, the FEC would be required to post reports on the Internet for all to see, and to require that candidates, and groups making independent expenditures, make faster and more complete reports. In addition, registered lobbyists would be required to report their campaign contributions and those of their employer on their lobbyist disclosure reports.

Problem 8: The Federal Election Commission is in need of procedural and substantive reform.

Solutions: This legislation contains a number of procedural and substantive reforms of the FEC, including term limits for commissioners, and increases in penalties for serious violations.

Problem 9: The safeguards designed to protect the integrity of our elections are compromised by weak aspects of federal laws regulating voter registration and voting.

Solutions: The investigations of contested elections in Louisiana and California have shown significant weaknesses in federal laws designed to safeguard the registration and voting processes. The requirement that states allow registration by mail has undermined confidence that only qualified voters are registering to vote and only registering once: states should be allowed to decide whether to allow mail-in registrations. In addition, states should be allowed to require proof of citizenship when registering and proof of identification when voting: we require a photo ID to buy beer or cigarettes and can certainly allow states to protect the voting process by requiring a photo ID.

Lastly, this bill would allow states to purge inactive voters and to allow state law to govern whether voters who move without reregistering should be allowed to vote.

These are the problems which I believe can be solved in a bipartisan fashion. Attached to this statement is a section by section review of the legislation. I look forward to working with my colleagues to enact meaningful campaign reform, by looking at reform beyond the usual sound bites and addressing the real problems with our present campaign system.

Mr. President, I ask unanimous consent that the text of the bill summary be printed in the RECORD.

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

CONSTITUTIONAL AND EFFECTIVE REFORM OF CAMPAIGNS ACT—SECTION-BY-SECTION

TITLE I—ENHANCEMENT OF CITIZEN INVOLVEMENT

Section 101: Prohibits those ineligible to vote (non-citizens, minors, felons) from making contributions ('hard money') or donations ('soft money'). Also bans foreign aliens making independent expenditures and codifies FEC regulations on foreign control of domestic donations.

Section 102: Updates maximum individual contribution limit to $2000 per election (primary and general) and indexes both individual and PAC limits in the future.

Section 103: Provides a tax credit up to $100 for contributions to in-state candidates for Senate and House for incomes up to $60,000 ($200 for joint filers up to $120,000).

TITLE II—LEVELING THE PLAYING FIELD FOR CANDIDATES

Section 201: Seed money provision: Senate candidates may collect $300,000 and House candidates $100,000 (minus any funds carried over from a prior cycle) in contributions up to $10,000 from individuals and PAC's.

Section 202: 'Anti-millionaires' provision: when one candidate spends over $25,000 of personal funds, a candidate may accept contributions up to $10,000 from individuals and PAC's up to the amount of personal spending minus a candidate's funds carried over from a prior cycle and own use of personal funds.

Section 203: Bans use of Senate frank for mass mailings from January 1 to election day for incumbents seeking reelection.

TITLE III—VOLUNTARINESS OF POLITICAL CONTRIBUTIONS

Section 301: Union dues provision: Labor organizations must obtain prior, written authorization for portion of dues or fees not to

be used for representation: Establishes civil action for aggrieved employee. Requires employers to post notice of rights. Amends reporting statute to require better disclosure of expenses unrelated to representation.

Section 302: Corporations must disclose soft money donations in annual reports.

TITLE IV—ELIMINATION OF CAMPAIGN EXCESSES

Section 410: Adds soft money donations to present ban on fundraising on federal property and to other criminal statutes.

Section 402: Hard money contributions or soft money donations over $500 which a political committee intends to return because of illegality must be transferred to the FEC and may be given to the Treasury as part of a civil or criminal action.

Section 403: 'Soft' and 'hard' money provisions. Soft money cap: no national party, congressional committee or senatorial committee shall accept donations from any source exceeding $100,000 per year. Hard money increases: limit raised from $25,000 to $50,000 per individual per year with no sublimit to party committees.

Section 404: Codifies FEC regulations banning conversion of campaign funds to personal use.

TITLE V—ENHANCED DISCLOSURE

Section 501: Additional reporting requirements for candidates: weekly reports for last month of general election, 24-hour disclosure of large contributions extended to 90 days before election, and end of 'best efforts' waiver for failure to obtain occupation of contributors over $200.

Section 502: FEC shall make reports filed available on the Internet.

Section 503: 24-hour disclosure of independent expenditures over $1,000 in last 20 days before election, and of those over $10,000 made anytime.

Section 504: Registered lobbyists shall include their own contributions and soft money donations and those of their employers and the employers' coordinated PAC's on lobbyist disclosure forms.

TITLE VI—FEDERAL ELECTION COMMISSION REFORM

Section 601: FEC shall develop and provide, at no cost, software to file reports, and shall issue regulations mandating electronic filing and allowing for filing by fax.

Section 602: Limits commissioners to one term of eight years.

Section 603: Increases penalties for knowing and willful violations to greater of $15,000 or 300 percent of the contribution or expenditure.

Section 604: Requires that FEC create a schedule of penalties for minor reporting violations.

Section 605: Establishes availability of oral arguments at FEC when requested and two commissioners agree. Also requires that FEC create index of Commission actions.

Section 606: Changes reporting cycle for committees to election cycle rather than calendar year.

Section 607: Classifies FEC general counsel and executive director as presidential appointments requiring Senate confirmation.

TITLE VII—IMPROVEMENTS TO NATIONAL VOTER REGISTRATION ACT

Section 701: Repeals requirement that states allow registration by mail.

Section 702: Requires that registrants for federal elections provide social security number and proof of citizenship.

Section 703: Provides states the option of removing registrants from eligible list of federal voters who have not voted in two federal elections and did not respond to postcard.

Section 704: Allows states to require photo ID at the polls.

Section 705: Repeals requirement that states allow people to change their registration at the polls and still vote.

By Mr. COCHRAN (for himself, Mrs. LINCOLN, Mr. COVERDELL, Mr. SESSIONS, Mr. CLELAND, Mr. HOLLINGS, Mr. SHELBY, Mr. ROBB, and Mr. HUTCHINSON):

S. 1108. A bill to amend the Federal Crop Insurance Act to improve crop insurance coverage and administration, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

CROP INSURANCE EQUITY ACT OF 1999

Mr. COCHRAN. Mr. President, I am pleased to be joined today by my colleague from Arkansas, Mrs. Lincoln, in introducing the Crop Insurance Equity Act of 1999 to reform the federal crop insurance program. The other cosponsors of the bill are: Mr. COVERDELL, Mr. SESSIONS, MR. CLELAND, Mr. HOLLINGS, Mr. SHELBY, Mr. ROBB, and Mr. HUTCHINSON.

The Crop Insurance Equity Act of 1999 is based on several principles. First, we do not believe that the crop insurance program should be the next iteration of a farm bill. Therefore, this bill maintains the current policy with regard to federal subsidy for revenue insurance products.

We developed this bill with the intent of addressing the reasons farmers in our states have found crop insurance to be impractical. We believe that farmers from Washington to Florida and Maine to California will find this bill worthy of their support.

Our bill establishes a process under which the current rates and rating methods and procedures will be re-evaluated by USDA to examine factors not currently considered. This may lower crop insurance rates for some commodities. However, because all current rating methodologies are actuarially sound, if the re-evaluation would result in an increased rate, the current method must remain in place.

This bill also establishes a fixed percentage as the federal contribution to a farmer's crop insurance premium. Current law provides higher contributions for lower levels of coverage. This bill would treat all farmers fairly.

We believe that one of the simplest ways to make crop insurance more attractive is to make it operate more like other common forms of insurance, such as homeowners or auto insurance. This bill establishes a process of discounts and a menu of policy options from which farmers can choose. These include discounts for coverage of larger, less risky units of production, employment of technologically advanced agricultural management practices, and the reinstatement of good experience discounts. In addition, farmers will be able to choose whether to purchase specific coverages for prevented planting, quality losses, and cost of production coverage.

Mr. President, this bill raises the basic coverage level for the lowest crop insurance unit—catastrophic coverage—so that all farmers will benefit from this legislation. For the same minimal fee as established in current law, this bill will provide catastrophic coverage for sixty percent of a farmer's historical production at seventy percent of the market price.

Our bill also makes other important changes to the program. It protects new farmers or those who rent new land or produce new crops by ensuring they are assigned a fair yield until they generate adequate actual production data.

The legislation improves the management and oversight of the crop insurance program by establishing the Farm Service Agency as the sole agency for acreage and yield record keeping within USDA. It restructures the board of directors of the Federal Crop Insurance Corporation to include more farmers, and establishes a new office to work with private sector companies who develop new crop insurance products.

One of the major complaints that I have heard about crop insurance is the abuse and fraud that exists in the current program. To address this complaint, our bill also improves the monitoring of agents and adjusters to combat fraud, and strengthens the penalties available to USDA for companies, agents, and producers who engage in fraudulent activities.

I believe that we have developed a sound proposal which Senators will find good reason to support.

Mr. President, I ask unanimous consent that the bill and a summary of the legislation be printed in the RECORD.

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

S. 1108

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 ''Crop Insurance Equity Act of 1999''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—CROP INSURANCE COVERAGE

Sec. 101. Prevented planting.
Sec. 102. Alternative rating methodologies.
Sec. 103. Quality adjustment.
Sec. 104. Low-risk producer pilot program.
Sec. 105. Catastrophic risk protection.
Sec. 106. Loss adjustment.
Sec. 107. Cost of production plans of insurance.
Sec. 108. Discounts.
Sec. 109. Adjustments to subsidy levels.
Sec. 110. Sales closing dates.
Sec. 111. Assigned yields.
Sec. 112. Actual production history adjustment for disasters.
Sec. 113. Payment of portion of premium.
Sec. 114. Limitation on premiums included in underwriting gains.

TITLE II—ADMINISTRATION

Sec. 201. Board of Directors of Corporation.
Sec. 202. Office of Risk Management.
Sec. 203. Office of Private Sector Partnership.
Sec. 204. Penalties for false information.
Sec. 205. Regulations.
Sec. 206. Program compliance.
Sec. 207. Payments by cooperative associations.
Sec. 208. Limitation on double insurance.
Sec. 209. Consultation with State committees of Farm Service Agency.
Sec. 210. Records and reporting.
Sec. 211. Fees for plans of insurance.
Sec. 212. Flexible subsidy pilot program.
Sec. 213. Reinsurance agreements.
Sec. 214. Funding.

TITLE I—CROP INSURANCE COVERAGE

SEC. 101. PREVENTED PLANTING.

Section 508(a) of the Federal Crop Insurance Act (7 U.S.C. 1508(a)) is amended by adding at the end the following:

''(7) PREVENTED PLANTING.—

''(A) IN GENERAL.—The Corporation shall offer coverage for prevented planting of an agricultural commodity only as an endorsement to a policy.

''(B) EQUAL COVERAGE.—For each agricultural commodity for which prevented planting coverage is available, the Corporation shall offer an equal level of prevented planting coverage.

''(C) PLANTING OF SUBSTITUTE AGRICULTURAL COMMODITIES.—In the case of prevented planting coverage that is offered under this paragraph, the Corporation shall allow producers that have the coverage, and that are eligible to receive a prevented planting indemnity, to plant an agricultural commodity, other than the commodity covered by the prevented planting coverage, on the acreage that the producer has been prevented from planting to the original agricultural commodity.

''(D) INELIGIBILITY FOR COVERAGE.—A substitute agricultural commodity described in subparagraph (C) shall not be eligible for coverage under a plan of insurance under this title.''.

SEC. 102. ALTERNATIVE RATING METHODOLOGIES.

Section 508(a) of the Federal Crop Insurance Act (7 U.S.C. 1508(a)) (as amended by section 101) is amended by adding at the end the following:

''(8) ALTERNATIVE RATING METHODOLOGIES.—

''(A) IN GENERAL.—Not later than September 30, 2000, the Corporation shall develop and implement alternative methodologies for rating plans of insurance under subsections (b) and (c), and rates for the plans of insurance, that take into account—

''(i) producers that elect not to participate in the Federal crop insurance program established under this title; and

''(ii) producers that elect only to obtain catastrophic risk protection under subsection (b).

''(B) REVIEW AND ADJUSTMENT.—Effective for the 2001 and subsequent crop years, the Corporation shall review and make any necessary adjustments to methodologies and rates established under this paragraph, based on (as determined by the Corporation)—

''(i) expected future losses, with appropriate adjustment of any historical data used in rating to remove—

''(I) the impact of adverse selection; and

''(II) data that no longer reflects the productive capacity of the area;

''(ii) program errors; and

''(iii) any other factor that can cause errors in methodologies and rates.

''(C) IMPLEMENTATION.—In developing, implementing, and adjusting rating methodologies and rates under this paragraph, the Corporation shall—

''(i) use methodologies for rating plans of insurance under subsections (b) and (c) that result in the lowest premiums payable by producers of an agricultural commodity in a geographic area, as determined by the Corporation; and

''(ii) update the manner in which rates are applied at the individual producer level, as determined by the Corporation.

''(D) PRIORITY.—In developing, implementing, and adjusting alternative methodologies for rating plans of insurance under subsections (b) and (c) for agricultural commodities, the Corporation shall provide the highest priority to agricultural commodities with (as determined by the Corporation)—

''(i) the largest average acreage; and

''(ii) the lowest percentage of producers that purchased coverage under subsection (c).''.

SEC. 103. QUALITY ADJUSTMENT.

Section 508(a) of the Federal Crop Insurance Act (7 U.S.C. 1508(a)) (as amended by section 102) is amended by adding at the end the following:

''(9) QUALITY ADJUSTMENT POLICIES.—The Corporation shall offer, only as an endorsement to a policy, coverage that permits a reduction in the quantity of production of an agricultural commodity produced during a crop year, or any similar adjustment, that results from the agricultural commodity not meeting the quality standards established in the policy.''.

SEC. 104. LOW-RISK PRODUCER PILOT PROGRAM.

Section 508(a) of the Federal Crop Insurance Act (7 U.S.C. 1508(a)) (as amended by section 103) is amended by adding at the end the following:

''(10) LOW-RISK PRODUCER PILOT PROGRAM.—

''(A) IN GENERAL.—For each of the 2000 through 2003 crop years, the Corporation shall carry out a pilot program that is designed to encourage participation in the Federal crop insurance program established under this title by producers who rarely suffer insurable losses.

''(B) SCOPE.—The Corporation shall carry out the pilot program in at least 40 counties that are determined by the Corporation to be adequate to provide a comprehensive evaluation of the feasibility, effectiveness, and demand among producers for a low-risk producer program.

''(C) PREMIUM REFUND.—Notwithstanding section 506(o) and subsection (d)(1), if a producer participating in the pilot program incurs a yield loss in any crop year that is more than 10 percent but not more than 35 percent of the yield determined under subsection (g), the Corporation shall—

''(i) refund all or part, as determined by the Corporation, of the premium that was paid by the producer for a plan of insurance for the crop that incurred the qualifying loss; or

''(ii) apply the amount to be refunded under clause (i) against the premium payable by the producer for equivalent coverage for the subsequent crop year.

''(D) REGULATIONS.—The Corporation shall promulgate such regulations as are necessary to carry out the pilot program.''.

SEC. 105. CATASTROPHIC RISK PROTECTION.

Section 508(b)(2)(A) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)(2)(A)) is amended—

(1) in clause (i), by striking ''and'' at the end;

(2) in clause (ii)—

(A) by striking ''each of the 1999 and subsequent crop years'' and inserting ''the 1999 crop year''; and

(B) by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(iii) in the case of each of the 2000 and subsequent crop years, catastrophic risk protection shall offer a producer coverage for a 60 percent loss in yield, on an individual yield or area yield basis, indemnified at 70 percent of the expected market price, or a comparable coverage (as determined by the Corporation).''.

SEC. 106. LOSS ADJUSTMENT.

Section 508(b)(11) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)(11)) is amended by striking ''11 percent'' and all that follows through the end of the paragraph and inserting ''$50 for each claim that is adjusted under this subsection.''.

SEC. 107. COST OF PRODUCTION PLANS OF INSURANCE.

(a) IN GENERAL.—Section 508(c) of the Federal Crop Insurance Act (7 U.S.C. 1508(c)) is amended by striking paragraph (5) and inserting the following:

''(5) EXPECTED MARKET PRICE.—

''(A) IN GENERAL.—For the purposes of this title, the Corporation shall establish or approve the price level (referred to in this title as the 'expected market price') of each agricultural commodity for which insurance is offered.

''(B) AMOUNT.—The expected market price of an agricultural commodity—

''(i) except as otherwise provided in this subparagraph, shall be not less than the projected market price of the agricultural commodity, as determined by the Corporation;

''(ii) may be based on the actual market price of the agricultural commodity at the time of harvest, as determined by the Corporation; or

''(iii) in the case of cost of production or similar plans of insurance, shall be the projected cost of producing the agricultural commodity, as determined by the Corporation.''.

(b) CONFORMING AMENDMENTS.—Section 508(h) of the Federal Crop Insurance Act (7 U.S.C. 1508(h)) is amended—

(1) by striking paragraph (9); and

(2) by redesignating paragraph (10) as paragraph (9).

SEC. 108. DISCOUNTS.

Section 508(d) of the Federal Crop Insurance Act (7 U.S.C. 1508(d)) is amended by adding at the end the following:

''(3) DISCOUNTS.—

''(A) IN GENERAL.—Notwithstanding section 506(o) and paragraph (1), the Corporation shall provide a discount in the premium payable by the producer for a plan of insurance under subsections (b) and (c) for an agricultural commodity in a county if the producer—

''(i) during each of the preceding 5 consecutive crop years—

''(I) has obtained insurance under this title for the agricultural commodity; and

''(II) has not filed any claim under the insurance;

''(ii) if offered by the Corporation, elects to have unit coverage that reduces the risk of loss below the risk of loss that is expected for a unit comprised of all insurable acreage of the agricultural commodity in the county; or

''(iii) implements innovative farming management practices that reduce the risk of insurable loss, as determined by the Corporation.

''(B) AMOUNT.—

''(i) IN GENERAL.—Subject to clause (ii), the amount of the discount provided to a producer for a crop year under subparagraph (A) shall be determined by the Corporation.

''(ii) NO CLAIM DISCOUNT.—The amount of the discount provided to a producer for a crop year under subparagraph (A)(i) shall increase for each additional consecutive crop year for which the producer is eligible for a discount under subparagraph (A)(i).''.

SEC. 109. ADJUSTMENTS TO SUBSIDY LEVELS.

(a) IN GENERAL.—Section 508(e)(2) of the Federal Crop Insurance Act (7 U.S.C. 1508(e)(2)) is amended by striking subparagraphs (B) and (C) and inserting the following:

''(B) In the case of additional coverage below 65 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, the amount shall be equal to the sum of—

''(i) 50 percent of the amount of the premium established under subsection (d)(2)(B)(i); and

''(ii) the amount of operating and administrative expenses determined under subsection (d)(2)(B)(ii).

''(C) In the case of additional coverage equal to or greater than 65 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, the amount shall be equal to the sum of—

''(i) 50 percent of the amount of the premium established under subsection (d)(2)(C)(i); and

''(ii) the amount of operating and administrative expenses determined under subsection (d)(2)(C)(ii).''.

(b) APPLICATION.—The amendment made by subsection (a) applies beginning with the 2000 crop year.

SEC. 110. SALES CLOSING DATES.

Section 508(f)(2) of the Federal Crop Insurance Act (7 U.S.C. 1508(f)(2)) is amended by striking the last sentence.

SEC. 111. ASSIGNED YIELDS.

Section 508(g)(2)(B) of the Federal Crop Insurance Act (7 U.S.C. 1508(g)(2)(B)) is amended—

(1) by striking ''assigned a yield'' and inserting ''assigned—

''(i) a yield'';

(2) by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(ii) a yield determined by the Corporation, in the case of—

''(I) a person that has not been actively engaged in farming for a share of the production of the insured crop for more than 2 crop years, as determined by the Secretary;

''(II) a producer that produces an agricultural commodity on land that has not been farmed by the producer; and

''(III) a producer that rotates a crop produced on a farm to a crop that has not been produced on the farm.''.

SEC. 112. ACTUAL PRODUCTION HISTORY ADJUSTMENT FOR DISASTERS.

Section 508(g)(2) of the Federal Crop Insurance Act (7 U.S.C. 1508(g)(2)) is amended by adding at the end the following:

''(E) SUBSTITUTION OF TRANSITIONAL YIELD.—Effective beginning with the 2000 crop year, if the producer's yield of an agricultural commodity in any crop year is less than 85 percent of the transitional yield established by the Corporation for the agricultural commodity, the Corporation shall, at the option of the producer, consider the producer's yield for the crop year to be 85 percent of the transitional yield for the purpose of calculating the actual production history for a crop of an agricultural commodity under subparagraph (A).

''(F) CORPORATION'S SHARE OF COSTS.—In the case of any yield substitution under subparagraph (E), in addition to any other authority to pay any portion of the premium and indemnity, the Corporation shall pay—

''(i) the portion of the premium or indemnity that represents the increase in premium associated with the substitution of the transitional yield under subparagraph (E);

''(ii) all additional indemnities associated with the substitution; and

''(iii) any amounts that result from the difference in the administrative and operating expenses owed to an approved insurance provider as the result of the substitution.''.

SEC. 113. PAYMENT OF PORTION OF PREMIUM.

Section 508(h)(2) of the Federal Crop Insurance Act (7 U.S.C. 1508(h)(2)) is amended in the second sentence by inserting before the period at the end the following: '', except that the Corporation shall not pay any portion of the premium for any plan of insurance that offers coverage for losses associated with a change in price''.

SEC. 114. LIMITATION ON PREMIUMS INCLUDED IN UNDERWRITING GAINS.

Section 508(k) of the Federal Crop Insurance Act (7 U.S.C. 1508(k)) is amended by adding at the end the following:

''(8) LIMITATION ON PREMIUMS INCLUDED IN UNDERWRITING GAINS.—Notwithstanding any other provision of law, the reinsurance agreements of the Corporation shall require that not more than 50 percent of any premium for catastrophic risk protection under subsection (b) be included in the calculation of gains or losses of an approved insurance provider unless the loss ratio for catastrophic risk protection exceeds 1.0.''.

TITLE II—ADMINISTRATION

SEC. 201. BOARD OF DIRECTORS OF CORPORATION.

Section 505 of the Federal Crop Insurance Act (7 U.S.C. 1505) is amended by striking subsection (a) and inserting the following:

''(a) BOARD OF DIRECTORS.—

''(1) IN GENERAL.—The management of the Corporation shall be vested in a Board subject to the general supervision of the Secretary.

''(2) COMPOSITION.—The Board shall consist of—

''(A) 4 members who are active agricultural producers with or without crop insurance, with 1 member appointed from each of the 4 regions of the United States (as determined by the Secretary);

''(B) 1 member who is active in the crop insurance business;

''(C) 1 member who is active in the reinsurance business;

''(D) the Under Secretary for Farm and Foreign Agricultural Services;

''(E) the Under Secretary for Rural Development; and

''(F) the Chief Economist of the Department of Agriculture.

''(3) APPOINTMENT AND TERMS OF PRIVATE SECTOR MEMBERS.—The members of the Board described in subparagraphs (A), (B), and (C) of paragraph (2)—

''(A) shall be appointed by, and hold office at the pleasure of, the Secretary;

''(B) shall not be otherwise employed by the Federal Government;

''(C) shall be appointed to staggered 4-year terms, as determined by the Secretary; and

''(D) shall serve not more than 2 consecutive terms.

''(4) CHAIRPERSON.—The Board shall select a member of the Board described in subparagraph (A), (B), or (C) of paragraph (2) to serve as Chairperson of the Board.

''(5) STAFF.—The Board shall employ or contract with 1 or more individuals who are knowledgeable and experienced in quantitative mathematics and actuarial rating to assist the Board in reviewing and approving policies and materials with respect to plans of insurance authorized or submitted under section 508.''.

SEC. 202. OFFICE OF RISK MANAGEMENT.

(a) ESTABLISHMENT.—Section 226A(a) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6933(a)) is amended by striking ''independent Office of Risk Management'' and inserting ''Office of Risk Management, which shall be under the direction of the Board of Directors of the Federal Crop Insurance Corporation''.

(b) FUNCTIONS.—Section 226A(b) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6933(b)) is amended by striking paragraph (1) and inserting the following:

''(1) Assistance to the Board in developing, reviewing, and recommending plans of insurance under section 508(a)(7) of the Federal Crop Insurance Act (7 U.S.C. 1508(a)(7)) to ensure that each agricultural commodity (including each new or speciality crop) is adequately served by plans of insurance.''.

SEC. 203. OFFICE OF PRIVATE SECTOR PARTNERSHIP.

The Federal Crop Insurance Act is amended by inserting after section 507 (7 U.S.C. 1507) the following:

''SEC. 507A. OFFICE OF PRIVATE SECTOR PARTNERSHIP.

''(a) ESTABLISHMENT.—The Secretary shall establish and maintain in the Department an Office of Private Sector Partnership, which shall be under the direction of the Board.

''(b) FUNCTIONS.—The Office shall—

''(1) provide at least monthly reports to the Board on crop insurance issues, which shall be based on comments received from producers, approved insurance providers, and other sources that the Office considers appropriate;

''(2)(A) review policies and materials with respect to—

''(i) subsidized plans of insurance authorized under section 508; and

''(ii) unsubsidized plans of insurance submitted to the Board under section 508(h); and

''(B) make recommendations to the Board with respect to approval of the policies and materials;

''(3) administer the reinsurance functions described in section 508(k) on behalf of the Corporation;

''(4) review and make recommendations to the Board with respect to methodologies for rating plans of insurance under this title; and

''(5) perform such other functions as the Board considers appropriate.

''(c) ADMINISTRATOR.—The Office shall be headed by an Administrator who shall be appointed by the Secretary.

''(d) STAFF.—The Administrator shall appoint such employees pursuant to title 5, United States Code, as are necessary for the administration of the Office, including employees who have commercial reinsurance and actuarial experience.''.

SEC. 204. PENALTIES FOR FALSE INFORMATION.

Section 506(n)(1) of the Federal Crop Insurance Act (7 U.S.C. 1506(n)(1)) is amended—

(1) in subparagraph (A), by inserting ''for each claim'' after ''$10,000''; and

(2) in subparagraph (B), by striking ''noninsured assistance'' and inserting ''any loan, payment, or benefit described in section 1211 of the Food Security Act of 1985 (16 U.S.C. 3811)''.

SEC. 205. REGULATIONS.

Section 506(p) of the Federal Crop Insurance Act (7 U.S.C. 1506(p)) is amended—

(1) by striking ''The Secretary'' and inserting the following:

''(1) IN GENERAL.—The Secretary''; and

(2) by adding at the end the following:

''(2) TERMS OF INSURANCE.—

''(A) IN GENERAL.—Regulations issued by the Secretary and the Corporation specifying the terms of insurance under section 508 shall be issued without regard to—

''(i) the notice and comment provisions of section 553 of title 5, United States Code;

''(ii) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

''(iii) chapter 35 of title 44, United States Code (commonly known as the 'Paperwork Reduction Act').

''(B) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this paragraph, the Secretary shall use the authority provided under section 808 of title 5, United States Code.''.

SEC. 206. PROGRAM COMPLIANCE.

Section 506(q) of the Federal Crop Insurance Act (7 U.S.C. 1506(q)) is amended—

(1) by redesignating paragraph (2) as paragraph (6); and

(2) by striking paragraph (1) and inserting the following:

''(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Crop Insurance Equity Act of 1999, the Corporation

shall establish a program for monitoring compliance with this title by all Federal crop insurance participants, including producers, agents, adjusters, and approved insurance providers.

''(2) CONSULTATION.—The Corporation shall consult with approved insurance providers in developing the compliance program.

''(3) OVERSIGHT OF LOSS ADJUSTMENT.—As part of the compliance program, the Corporation shall provide for a mechanism to independently review the performance of loss adjusters.

''(4) PROGRAM REVIEW.—Not later than 90 days after the date of enactment of the Crop Insurance Equity Act of 1999, the Corporation shall submit to the Board and the Office of Private Sector Partnership for their review the proposed compliance program under this subsection.

''(5) ANNUAL REPORTS.—Beginning with fiscal year 2001, the Corporation shall submit an annual report to the Committee on Agriculture of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry of the Senate, the Board, and the Office of Private Sector Partnership concerning the compliance program established under this subsection, including any recommendations for legislative or administrative changes that could further improve program compliance.''.

SEC. 207. PAYMENTS BY COOPERATIVE ASSOCIATIONS.

Section 507(e) of the Federal Crop Insurance Act (7 U.S.C. 1507(e)) is amended—

(1) by striking ''(e) In'' and inserting the following:

''(e) COOPERATIVE ASSOCIATIONS.—

''(1) IN GENERAL.—In''; and

(2) by adding at the end the following:

''(2) PAYMENTS.—A cooperative association described in paragraph (1) that is licensed and acts as an agent or approved insurance provider with respect to any plan of insurance offered under this title may provide to the members of the association all or part of any funds received from the Corporation under this title.''.

SEC. 208. LIMITATION ON DOUBLE INSURANCE.

Section 508(a) of the Federal Crop Insurance Act (7 U.S.C. 1508(a)) (as amended by section 104) is amended by adding at the end the following:

''(11) LIMITATION ON DOUBLE INSURANCE.—The Corporation may offer plans of insurance or reinsurance for only 1 agricultural commodity on specific acreage during a crop year, unless—

''(A) there is an established practice of double-cropping in an area, as determined by the Corporation;

''(B) the additional plan of insurance is offered with respect to an agricultural commodity that is customarily double-cropped in the area; and

''(C) the producer has a history of double cropping or the acreage has historically been double-cropped.''.

SEC. 209. CONSULTATION WITH STATE COMMITTEES OF FARM SERVICE AGENCY.

Section 508(a) of the Federal Crop Insurance Act (7 U.S.C. 1508(a)) (as amended by section 208) is amended by adding at the end the following:

''(12) CONSULTATION WITH STATE COMMITTEES OF FARM SERVICE AGENCY.—The Corporation shall establish a mechanism under which State committees of the Farm Service Agency are consulted concerning policies of insurance offered in a State under this title.''.

SEC. 210. RECORDS AND REPORTING.

(a) CATASTROPHIC RISK PROTECTION.—Section 508(f)(3)(A) of the Federal Crop Insurance Act (7 U.S.C. 1508(f)(3)(A)) is amended by striking ''provide, to the extent required by the Corporation,'' and inserting ''to the extent required by the Corporation, provide to the Secretary, acting through the Farm Service Agency,''.

(b) NONINSURED CROP DISASTER ASSISTANCE PROGRAM.—Section 196(b) of the Agricultural Market Transition Act (7 U.S.C. 7333(b)) is amended—

(1) by striking paragraph (2) and inserting the following:

''(2) RECORDS.—To be eligible for assistance under this section, a producer shall provide annually to the Secretary, acting through the Farm Service Agency, records of crop acreage, acreage yields, and production for each eligible crop.''; and

(2) in paragraph (3), by inserting ''annual'' after ''shall provide''.

SEC. 211. FEES FOR PLANS OF INSURANCE.

Section 508(h)(5) of the Federal Crop Insurance Act (7 U.S.C. 1508(h)(5))) is amended—

(1) by striking ''Any policy'' and inserting the following:

''(A) IN GENERAL.—Any policy''; and

(2) by adding at the end the following:

''(B) FEES FOR NEW PLANS OF INSURANCE.—

''(i) IN GENERAL.—If an approved insurance provider elects to sell a plan of insurance that was developed by another approved insurance provider after the date of enactment of this subparagraph and the plan of insurance offered coverage that was not available for any crop at the time the plan of insurance was approved by the Board (as determined by the Corporation), the approved insurance provider that developed the plan of insurance shall have the right to receive a fee from the approved insurance provider that elects to sell the plan of insurance.

''(ii) AMOUNT.—

''(I) IN GENERAL.—Subject to subclause (II), the amount of the fee that is payable by an approved insurance provider for a plan of insurance under clause (i) shall be an amount that is—

''(aa) determined by the approved insurance provider that developed the plan; and

''(bb) approved by the Board.

''(II) APPROVAL.—The Board shall not approve the amount of a fee under clause (i) if the amount of the fee unnecessarily inhibits the use of the plan of insurance, as determined by the Board.

''(C) PAYMENTS.—The Corporation shall annually—

''(i) collect from an approved insurance provider the amount of any fees that are payable by the approved insurance provider under subparagraph (B); and

''(ii) credit any fees that are payable to an approved insurance provider under subparagraph (B).''.

SEC. 212. FLEXIBLE SUBSIDY PILOT PROGRAM.

Section 508(h) of the Federal Crop Insurance Act (7 U.S.C. 1508(h)) is amended by adding at the end the following:

''(11) FLEXIBLE SUBSIDY PILOT PROGRAM.—For each of the 2000 through 2002 crop years, the Corporation shall carry out a pilot program under which flexible subsidies are provided under this title to encourage private sector innovation through exclusive marketing rights and premium rate competition.''.

SEC. 213. REINSURANCE AGREEMENTS.

Section 508(k) of the Federal Crop Insurance Act (7 U.S.C. 1508(k)) is amended by striking paragraph (3) and inserting the following:

''(3) REINSURANCE AGREEMENTS.—

''(A) SHARE OF RISK.—Each reinsurance agreement of the Corporation with a reinsured company shall require the reinsured company to bear a sufficient share of any potential loss under the agreement so as to ensure that the reinsured company will sell and service policies of insurance in a sound and prudent manner, taking into consideration the financial condition of the reinsured company and the availability of private reinsurance.

''(B) COMPLIANCE.—To promote program compliance and integrity, the Corporation, after notice and an opportunity for a hearing on the record—

''(i)(I) shall assess civil fines in an amount not to exceed $10,000 per violation against agents, loss adjusters, and approved insurance providers that are determined by the Corporation to have recurring compliance problems; and

''(II) may deposit any civil fines collected under subclause (I) in the insurance fund established under section 516(c); and

''(ii) shall disqualify the agents, loss adjusters, and approved insurance providers described in clause (i)(I) from participation in the Federal crop insurance program for a period not to exceed 5 years.

''(C) REVIEW OF AGREEMENTS.—As soon as practicable after the date of enactment of this subparagraph and regularly thereafter, in consultation with the Office of Private Sector Partnership, the Corporation shall review the Standard Reinsurance Agreement issued by the Corporation to ensure that the allocation of risk between the Corporation and the reinsured companies is equitable, as determined by the Corporation.''.

SEC. 214. FUNDING.

Section 516 of the Federal Crop Insurance Act (7 U.S.C. 1516) is amended—

(1) in subsection (a)(2)—

(A) in subparagraph (A), by striking ''and'' at the end;

(B) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(C) salaries and expenses of the Office of Private Sector Partnership.'';

(2) in subsection (b)(1)—

(A) in subparagraph (B), by striking ''; and'' and inserting a semicolon;

(B) in subparagraph (C), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(D) salaries and expenses of the Office of Private Sector Partnership, but not to exceed $5,000,000 for each fiscal year;

''(E) administrative expenses of collecting information under section 508(f)(3); and

''(F) payment of fees in accordance with section 508(h)(5)(B).''; and

(3) in subsection (c)(1), by inserting '', fees under section 508(h)(5)(B), civil fines under section 508(k)(3)(B)(i)(II),'' after ''premium income''.

CROP INSURANCE EQUITY ACT OF 1999—SUMMARY

Sec. 101—Prevented Planting. Ensures that producers have the ability to reduce premium cost by giving them the option whether to choose prevented planting coverage for a commodity. Ensures that prevented planting coverage offered under the crop insurance program is equivalent among all commodities. Also eliminates current ''black dirt'' requirement by allowing producers who are prevented from planting their insured commodity to receive the prevented planting indemnity but still plant another, uninsured crop on the same acreage without penalty. Amendment ensures that productive crop land is not idled because of crop insurance requirement.

Sec. 102—Alternative Rating Methodologies. The preliminary conclusions from a review of current rating methodologies indicates that many of FCIC's rates and rating procedures need to be changed. The bill directs FCIC to develop and implement alternative methodologies for rating insurance

plans by September 30, 2000, that takes into account (1) producers that elect not to participate in the Federal crop insurance program, and (2) producers that elect only to obtain catastrophic coverage. FCIC is also directed to review and make adjustments to methodologies and rates by the 2001 crop year, based on expected future losses (adjusted to correct for adverse selection and old data), program errors and other factors that can cause errors in methodologies and rates. The bill requires FCIC to implement the rating methodologies in a manner that results in the lowest premium payable by producers of a commodity in a particular geographic area. Priority will be given to those commodities with the lowest level of participation in buy-up coverage plans.

Sec. 103—Quality Adjustment. Ensures that quality adjustment coverage is offered as optional coverage.

Sec. 104—Low-risk producer pilot program. Establishes a pilot program designed to encourage participation in crop insurance by producers who rarely suffer insurable losses. Participating producers would receive a reduction in their payable premium if they incur a yield loss greater than 10%, but not great enough to trigger an indemnity.

Sec. 105—Catastrophic risk protection. Increases the coverage level for catastrophic coverage to 60% of APH at 70% of the price. Other parts of the bill address excessive underwriting gains and unearned loss adjustment expenses being generated as a result of CAT coverages.

Sec. 106—Loss adjustment. Reduces the fees for loss adjustments with respect to catastrophic coverage.

Sec. 107—Cost of production plans of insurance. Provides permanent authority for the Federal Crop Insurance Corporation to provide cost of production and revenue insurance coverage.

Sec. 108—Discounts. The bill requires FCIC to reinstate good experience discounts and to provide discounts for production practices that reduce the risk of loss and for insurance that is issued on larger, more cost-effective insurable units.

Sec. 109—Adjustment to Subsidy Levels. The bill provides for 50% subsidization of all levels of buy-up coverage.

Sec. 110—Sales Closing Dates. The bill restores flexibility to FCIC in determining sales closing dates.

Sec. 111—Assigned Yields. Ensures that beginning farmers or farmers who rent new land or produce new crops will be assigned a fair yield.

Sec. 112—Actual production history adjustment for disasters. Requires FCIC to adjust APH yields for producers who suffer multi-year disasters by directing FCIC to assign a yield equal to 85% of the county transition yield for any year in which a producer's yield falls below that 85% level.

Sec. 113—Payment of Portion of Premium. Prohibits FCIC from subsidizing revenue or price insurance policies.

Sec. 114—Limitation on Underwriting Gains. The bill limits the amount of underwriting gains companies can make on catastrophic policies to 50 percent of the premium.

TITLE II

Sec. 201—Board of Directors of Corporation. Expands the board to include 4 producers from 4 regions of the United States, 1 person engaged in the crop insurance business, 1 person engaged in reinsurance, the Undersecretary for Farm and Foreign Agricultural Services, the Under Secretary for Rural Development and the Chief Economist of the Department of Agriculture.

Sec. 202—Office of Risk Management. Clarifies that the FCIC board of directors shall have direct oversight of RMA.

Sec. 203—Office of Private Sector Partnership. Establishes the Office of Private Sector Partnership, reporting directly to the FCIC board. The OPSP will have the authority to review and make recommendations on both privately and RMA-developed policies. It will also have the authority to approve reinsurance and review and make recommendations concerning subsidy for new crop policies and, with board concurrence, approve new rating structures.

Sec. 204—Penalities for false information. Allows anyone convicted of providing false information in connection with any crop insurance claim to be disbarred from all USDA programs.

Sec. 205—Regulations. Allows certain RMA rulemaking activities to be exempted from the Administrative Procedures Act and other federal statutes.

Sec. 206—Program Compliance. The bill enhances the compliance authority of FCIC by 1) requiring FCIC to develop and implement an effective program for monitoring program compliance by all crop insurance participants; and 2) requiring regular oversight of loss adjusters.

Sec. 207—Payment of rebates to cooperative associations. Allows the payment of rebates to cooperatives who engage in the sale of crop insurance.

Sec. 208—Limitation on Double Insurance. Prohibits purchasing insurance for two crops for the same acreage in a year, except where there is an established practice of double-cropping.

Sec. 209—Consultation with state committees of farm service agency. Requires FCIC to consult with state FSA committees on the feasibility of polices of insurance being offered in their state.

Sec. 210—Records and reporting. The bill strengthens requirements for accurate recordkeeping and reporting of crop production by participants and non-participants in crop insurance.

Sec. 211—Fees for plans of insurance. Establishes a system of payment for the sale of policies developed by other companies.

Sec. 212—Flexible subsidy pilot program. Allows for the creation of a flexible subsidy pilot program for the 2000–2002 crop years.

Sec. 213—Reinsurance Agreements. Provides tougher sanctions for agents and reinsured companies that have recurring compliance difficulties, and requires a regular review of the Standard Reinsurance Agreement.

Sec. 214—Funding. Makes necessary adjustments in funding provisions to take into account the establishment of the Office of Private Sector Partnership.

Mrs. LINCOLN. Mr. President, I am pleased to be here today with my colleague from Mississippi, Senator COCHRAN, to introduce the Crop Insurance Equity Act of 1999. We believe this bill makes fundamental changes to the existing Federal Crop Insurance Program that are necessary to make crop insurance more workable and affordable for producers across the country.

As we all know, the government's role in farm programs has changed. The 1996 Farm Bill phased out traditional support for our farmers, and current farm programs require producers to assume more risk than ever before. Due to the Ag economic crisis, there has been much discussion lately on the issue of the ''safety net'' for our nation's producers. On that point I would like to be perfectly clear. Crop insurance is a risk management tool to help producers guard against yield loss. It was not created and was never intended to be the end all be all solution for the income needs of our nation's producers. As the crop insurance reform debate proceeds, I am hopeful that my colleagues will be cognizant of the various needs in the agriculture community and recognize that while crop insurance is an important part of the ''safety net,'' it is not and should not be the only income guard for our nation's farmers.

Congress has been attempting to eliminate the ad hoc disaster program for years because it is not the most efficient way of helping our farmers who suffer yield losses. Senator Cochran and I have been working over the last few months with individuals involved in crop insurance delivery, major commodity organizations, and most importantly, farmers, to craft a comprehensive bill that addresses the various reform needs of the crop insurance program. We feel that this legislation takes a significant step toward providing a crop insurance program that is equitable, affordable, and effective.

In response to the outcry we have heard from producers in Arkansas, Mississippi, and across the nation, we have attempted to make the crop insurance program more cost effective for our farmers. In Arkansas, the last estimates I heard indicated that 1% of our cotton producers were participating in the buy-up program this year. Buy-up coverage for all commodities in Akansas historically is around 12%. That tells me that producers at home don't think that crop insurance is currently providing the kind of help they need. Our bill establishes a process for re-evaluating crop insurance rates for all crops and for lowering those rates if warranted. By making the crop insurance program more affordable, additional producers will be encouraged to participate in the program and protect themselves against the unforeseeable factors that will be working against them once they put a crop into the ground.

This legislation directs USDA to establish ''good experience'' premium discounts for producers who have not filed claims in the last years. This simply makes sense. If you have car insurance and you haven't had a wreck or a ticket over a significant period of time, then your premium is reduced. Crop insurance should not be any different.

The bill also provides for a more equitable subsidy method by setting the subsidy for crop insurance premiums at a flat rate, regardless of the level of coverage a producer purchases. Current law provides higher levels of federal subsidy to producers who purchase the lowest levels of coverage.

In an attempt to improve the record keeping process within USDA, this legislation establishes the Farm Service Agency (FSA) as the central repository for all acreage and yield record keeping. Current USDA record keeping, split between FSA and RMA, is redundant and insufficient. By including

both crop insurance program participants and non-program participants in the process, we hope to enhance the agricultural data held by the agency and make acreage and yield reporting less of a hassle for already overburdened producers.

In addition, this bill establishes a role for consultation with state FSA committees in the introduction of new coverage to a state. The need for this provision was made abundantly clear to Arkansas' rice producers this spring. A private insurance policy was offered to farmers at one rate, only to have the company reduce the rate once the amount of potential exposure was realized. In my discussions with various executives from the company on this issue it became apparent that their knowledge of the rice industry was fairly minimal. Had they consulted with local FSA committees who had a working knowledge of the rice industry before introduction of the policy, the train wreck that occurred might have been stopped in its tracks.

Many of the problems associated with the crop insurance program have been addressed in previous reform measures, however, fraud and abuses are still present to some degree. This bill strengthens the monitoring of agents and adjusters to combat fraud and enhances the penalties available to USDA for companies, agents and producers who engage in fraudulent activities. There is simply no room for bad actors that recklessly cost the taxpayers money.

While this bill was crafted with the input of producers from Arkansas and Mississippi, there is no preferential treatment toward any commodity or geographic region. We have attempted to include provisions that will make the crop insurance program more effective across the nation. We hope that we have achieved this goal and look forward to working with our colleagues to address any measures that will make the crop insurance reform effort more effective.

Mr. President, I ask unanimous consent that letters of support for this bill be included in the RECORD from the following commodity organizations: The National Cotton Council, USA Rice Federation, American Sugar Cane League, the Southern Peanut Farmers Federation, and the Alabama Farmers Federation.

These organizations have been very helpful in the crafting of this bill and we certainly appreciate the input they have provided.

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

AMERICAN SUGAR CANE LEAGUE OF THE U.S.A., INC.
Thibodaux, La, May 19, 1999.

Hon. THAD COCHRAN,
Russell Senate Office Building, Washington, DC
Hon. BLANCHE LINCOLN,
Hart Senate Office Building, Washington, DC

DEAR SENATORS COCHRAN AND LINCOLN: On behalf of the American Sugar Cane League of the U.S.A., Inc., which represents the entire sugar producing and processing industry in the state of Louisiana, I offer to you our full support of your efforts to improve crop insurance with the introduction of the Crop Insurance Equity Act of 1999. Agriculture in this great country has been in a crisis mode for the last several years and the federal crop insurance program, as it is presently structured, is of limited or no utility to our growers.

In particular, we are pleased with the language which directs the Federal Crop Insurance Corporation (FCIC) to review the rating methodologies, giving high priority to those commodities with the lowest level of participation. Due to the inherent problems with the program, as presently structured, sugarcane growers in Louisiana have not considered crop insurance an affordable or viable management tool. Again, it is with great enthusiasm that we support this bill which we hope will benefit the entire agricultural community and our industry, and allow us the opportunity to have available to us a viable risk management tool that is affordable.

We appreciate tremendously your initiative with this bill language which seeks to make crop insurance more useful for southern commodities. The Louisiana sugarcane industry will continue to review the reasons that crop insurance has not worked thus far and would like to reserve the option to make additional suggestions to you as the process moves forward. Thanks again for taking on a challenge that stands to give American agriculture what the rest of the manufacturing and business community of this country has always had, a viable and affordable risk management tool.

Sincerely,

CHARLES J. MELANCON,
President and General Manager.

NATIONAL COTTON COUNCIL OF AMERICA,
May 18, 1999.

Hon. THAD COCHRAN,
Hon. BLANCHE LINCOLN,
U.S. Senate, Washington, DC.

DEAR SENATORS COCHRAN and LINCOLN: On behalf of the National Cotton Council, I would like to convey our sincere appreciation and strong support for your efforts to improve the Federal crop insurance program. The legislation that you are about to introduce, The Crop Insurance Equity Act of 1999, makes many needed changes to the program, improves compliance, and should increase participation as well.

The profitability crisis we are experiencing in American agriculture and the policy direction we have chosen on farm programs has greatly increased the cotton industry's interest in more sound risk management tools to help weather the tough times. Your legislation takes a very comprehensive approach towards improving the current system. We are especially pleased with your provisions that will result in a reformed rating process, significantly improved record keeping requirements through the Farm Service Agency, equitable prevented planting coverage for all crops, and a streamlined private product approval process.

Finally, we appreciate the efforts of Hunt Shipman and Ben Noble on your staffs who worked tirelessly with the cotton industry to include provisions that would make the program more equitable for all commodities. They are both an asset to your offices.

Thank you again for your efforts and all you do to help the cotton industry. We look forward to working with you any way we can to insure passage of your bill.

Sincerely,

RON RAYER,
President, National Cotton Council,

ALLEN HELMS,
Chairman, American Cotton Producers Association.

USA RICE FEDERATION,
May 19, 1999

Hon. BLANCHE LAMBERT LINCOLN,
U.S. Senate, Washington, DC.

DEAR SENATOR LINCOLN: On behalf of the USA Rice Federation, which represents producers of over 80 percent of America's rice crop and virtually all U.S. rice millers, I would like to express our appreciation for the leadership that you and Senator Cochran have provided on the issue of reforming Federal crop insurance. Specifically, we want to express our strong support for the Crop Insurance Equity Act of 1999 which represents a positive step towards addressing the concerns that U.S. rice producers have had with the existing crop insurance program.

As you probably are aware, most rice producers have traditionally not participated in the Federal crop insurance program because premiums have been viewed as too high relative to the minimal coverage the program offers. For example, during the 1998 crop year, only 43 percent of 3 million acres planted to rice was covered by catastrophic policies while only another 20 percent of the acreage was covered by buy-up policies. In general, the low level of participation by U.S. rice farmers has occurred because: CAT coverage offers farmers minimal coverage and buy-up policies are too expensive; serious problems exist with the actuarial data used to calculate premiums and coverage; and rice farmers, who traditionally experience relatively low levels of yield variability, want price/revenue protection versus traditional yield coverage. We believe that the Crop Insurance Equity Act begins to seriously address each of these three major issues.

Again, Senator Lincoln, we want to thank you and your staff for working so closely with the USA Rice Federation during the development of this important bill. We are proud to support this bill and look forward to working with you to enact the legislation in 1999.

Sincerely,

A. ELLEN TERPSTRA,
President and Chief Executive Officer.

THE REDDING FIRM,
313 MASSACHUSETTS AVENUE, N.E.,
WASHINGTON, DC

We are very appreciative of Senators Cochran and Lincoln taking the lead on reforming the Federal Crop Insurance Program. Growers in the Southeast want sound product options at a reasonable price. The Cochran-Lincoln bill moves crop insurance in this direction. Disaster bills do not adequately address the problems growers face in a bad crop year. Crop insurance has to be reformed where growers can plan and address difficult financial times.

SOUTHERN PEANUT FARMERS FEDERATION.

ALFA FARMERS,
May 18, 1999.

Senator Blanche Lincoln,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR LINCOLN: On behalf of over 398,000 members of the Alabama Farmers Federation, I am writing in support of this bill which you and Senator Cochran are introducing titled the Crop Insurance Equity Act of 1999. This crop insurance reform bill goes a long way toward addressing the inequities southern producers face under the current federal crop insurance program. While producers do not want the government to guarantee them a profit, real crop insurance reform is needed to ensure farmers have

adequate risk management tools for years when a disaster does occur.

We are pleased that the Crop Insurance Equity Act addresses the so-called ''ratings'' issue in which southern producers are unfairly penalized by a flawed rating system. As you know, the current 20–year historical actuarial database being used to determine probability of loss and establish premium levels does not accurately reflect real risk (particularly in the Southeast).

In addition, Alabama farmers want increased emphasis on oversight by the federal government and private insurers to prevent fraud. The Federation is pleased that the oversight provisions were included in your bill by making crop insurance more affordable for good farmers and eliminating abuses by those who would take advantage of it, thereby increasing producer participation.

The Federation is also pleased to note that your bill restores the provision in law that enables producers with good experience to receive premium discounts, as well as eliminating ''black dirt'' and replant provisions which have unfairly penalized cotton growers in the current federal crop insurance program.

Furthermore, it is important to note that premium subsidies are shifted to the higher levels of coverage in your bill, as well as recognizing that your provision concerning the multiple year disasters remedies the problem that producers who experience multiple years of disaster currently face. These provisions should make higher coverage more affordable, as well as encourage greater producer participation.

Again, we thank you and Senator Cochran for your leadership for southern agriculture, and we look forward to working toward a reasonable crop insurance program that is truly a risk management tool for producers of all areas of the country.

Sincerely,

G. Keith Gray, Director, National Affairs.

By Mr. McCONNELL (for himself, Mr. SMITH of New Hampshire, Mr. KOHL, Mr. FRIST, Mr. GREGG, Mr. JOHNSON, Mr. WARNER, Mr. CLELAND, Mr. SCHUMER, Mr. ALLARD, Mr. JEFFORDS, Mr. AKAKA, Mrs. FEINSTEIN, Mr. ENZI, Mr. ROBB, Mr. GRAMS, Mrs. BOXER, Mr. LUGAR, Ms. LANDRIEU, Mr. COCHRAN, Mrs. MURRAY, Mr. INHOFE, Mr. MACK, Mr. TORRICELLI, Mr. BINGAMAN, Mr. THOMAS, Mr. LEAHY, Mr. CAMPBELL, Mr. KENNEDY, Mr. HELMS, Mr. DURBIN, Mr. SANTORUM, Mr. LAUTENBERG, Mr. BUNNING, Mr. MOYNIHAN, Mr. KERRY, Mr. WYDEN, Mr. GRAHAM, Mr. REID, Mr. LEVIN, and Mr. LIEBERMAN):

S. 1109. A bill to conserve global bear populations by prohibiting the importance, exportation, and interstate trade of bear viscera and items, products, or substances containing, or labeled or advertised as containing, bear viscera, and for other purposes; to the Committee on Environment and Public Works.

THE BEAR PROTECTION ACT

Mr. McCONNELL. Mr. President, I rise today to introduce the Bear Protection Act. This legislation, which I sponsored in the 105th Congress, is aimed at eliminating the poaching of America's bears for profit. As you may know, bear parts, such as gall bladders and bile, which are commonly referred to as ''viscera,'' have traditionally been used in myriad Asian medicines—for everything from diabetes to heart disease to hangovers, and in luxury shampoos and cosmetics. Due to the popularity of these products containing bear viscera, Asian bear populations have been decimated, causing poachers to run to American bears to meet the increasing demand.

Mr. President, the practice of poaching bears for viscera is both a national and international problem. Asian and American bear populations are threatened by high demand for and low supply of bear parts and by the black market trade in exotic and traditional medicine cures. The problem is compounded by the fact that the poaching of bears for their viscera is a very profitable enterprise, and one in which at least 18 Asian countries are known to participate. In fact, bear gall bladders in South Korea, for instance, are worth more than their weight in gold, fetching a price of about $10,000 a piece.

Mr. President, each year, nearly 40,000 black bears are legally hunted in 36 States and Canada. Unfortunately, it has been estimated that roughly the same number is illegally poached every year, according to a former chief law enforcement officer with the U.S. Fish and Wildlife Service. While I am pleased to report that for the most part, U.S. bear populations have remained stable or are increasing, I continue to remain concerned about the threat posed by unchecked poaching.

Since 1981, State and Federal wildlife agents have conducted many successful undercover operations to aimed at exposing the illegal slaughter of American bears. As recently as this past February, a group of State and Federal officers arrested 25 people in Virginia and charged them with 112 wildlife violations including bear poaching as part of Operations SOUP, or ''Special Operation to Uncover Poaching.'' Operation SOUP is a major undercover investigation, which has been ongoing for three years and is aimed at the trafficking of gall bladders and other bear parts from black bears in Virginia and Shenandoah National Park.

Mr. President, I have with me two press releases from the Virginia Department of Game and Inland Fishing, as well as an article from the Washington Post which I would like to have placed in the RECORD.

Mr. President, as these and other news reports will attest, this problem with poaching and trading bear parts must be addressed. Although many States and the U.S. Fish and Wildlife Service are making efforts to combat this problem, these agencies have neither the funds nor the resources to adequately solve the problem. Moreover, there are loopholes created by a patchwork of State laws that allow these illegal practices to flourish. There are fourteen States in which the sale of bear gall bladders is legal—eight of those States limit the sale to viscera taken from bears in other States, and there are five States that have no law in this regard. This patchwork of State laws enables poachers to ''launder'' the gall through the States that permit the sale of gall bladders. As long as a few States allow this action to go on, poaching for profit will continue.

Mr. President, as I mentioned earlier, this is both a national and international problem—and it is a growing problem. The Convention on International Trade in Endangered Species (CITES), to which the United States is a party, has recognized the issue of bear conservation as a global issue. In fact, CITES has noted that ''the continued illegal trade is bear parts and derivatives of bear parts undermines the effectiveness of the Convention and that if CITES parties . . . do not take action to eliminate such trade, poaching may cause declines of wild bears that could lead to the extirpation of certain populations or even species.'' The Convention goes on to say that in order to achieve this goal, ''submitted and measurable action'' must be taken—this includes adopting national legislation.

I would like to point out that members of the U.S. delegation to the CITES Convention contributed to the drafting of that resolution, and in doing so, made a strong statement about the need to strengthen our national commitment to eradicating the poaching of bears. Recently, the Secretariat pointed out that bear poaching is most likely to flourish in countries that have inconsistent internal trade, import, and export controls. In such instances where there are differences in national, Federal, and State laws, the Secretariat asserts that confusion and enforcement difficulties arise which will contribute to the availability of bear viscera that can become available for international trade.

Mr. President, in order to halt the poaching of America's bears, we need to effectuate legislation that not only prohibits the import and export of bear viscera, but we need to close the loopholes in State laws that encourage poachers to evade the law. To effectively reduce the laundering of bear viscera through the United States, all states must have a minimum level of protection. We must also stop the import and export of bear viscera, so that we can shut off the international trade before America's bear populations suffer the same fate as Asian bear populations.

The Bear Protection Act will do just that. It will establish national guidelines for trade in bear parts, but will not weaken any existing state laws that have been instituted to deal with this issue. The outright ban on the trade, sale or barter of bear viscera, including items that claim to contain bear parts, will close the existing loopholes and will allow State and Federal wildlife officials to focus their limited resources on much needed conservation efforts.

Mr. President, let me underscore that my bill would in no way infringe on the rights of hunters to legally hunt bears. These sportsmen would still be allowed to keep trophies and furs of bears killed during legal hunts.

The Bear Protection Act will also bolster America's efforts to curtail the international bear trade by directing the Secretaries of the Interior and State, as well as the United States Trade Representative to establish a dialogue with the counties that share our interest in conserving bear species. This, too, is an important element of the legislation because I believe efforts to both reduce the demand for bear parts in Asia and encourage the increased usage of synthetic and other natural products as an alternative to beargall should be made a priority.

Mr. President, it is important that we act now to protect the American bear population. The United States must take a stand and be an example to the rest of the world by prohibiting the illegal taking and smuggling of American bears. If we act now, we can stop the poaching of bears, which left unchecked, will lead us down a path toward these magnificent creatures' extinction. That is why I urge my colleagues to join me in support of this worthwhile legislation.

Mr. President, I ask that the full text of my legislation and additional material to be printed in the RECORD.

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

S. 1109

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 ''Bear Protection Act of 1999''.

SEC. 2. FINDINGS.

Congress finds that—

(1) all 8 extant species of bear—Asian black bear, brown bear, polar bear, American black bear, spectacled bear, giant panda, sun bear, and sloth bear—are listed on Appendix I or II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (27 UST 1087; TIAS 8249) (referred to in this section as ''CITES'');

(2) Article XIV of CITES provides that Parties to CITES may adopt stricter domestic measures regarding the conditions for trade, taking, possession, or transport of species on Appendix I or II, and the Parties to CITES adopted a resolution (Conf. 10.8) urging Parties to take immediate action to demonstrably reduce the illegal trade in bear parts and derivatives;

(3) the Asian bear populations have declined significantly in recent years, as a result of habitat loss and poaching due to a strong demand for bear viscera used in traditional medicines and cosmetics;

(4) Federal and State undercover operations have revealed that American bears have been poached for their viscera;

(5) while most American black bear populations are generally stable or increasing, commercial trade could stimulate poaching and threaten certain populations if the demand for bear viscera increases; and

(6) prohibitions against the importation into the United States and exportation from the United States, as well as prohibitions against the interstate trade, of bear viscera and products containing, or labeled or advertised as containing, bear viscera will assist in ensuring that the United States does not contribute to the decline of any bear population as a result of the commercial trade in bear viscera.

SEC. 3. PURPOSES.

The purpose of this Act is to ensure the long-term viability of the world's 8 bear species by—

(1) prohibiting international trade in bear viscera and products containing, or labeled or advertised as containing, bear viscera;

(2) encouraging bilateral and multilateral efforts to eliminate such trade; and

(3) ensuring that adequate Federal legislation exists with respect to domestic trade in bear viscera and products containing, or labeled or advertised as containing, bear viscera.

SEC. 4. DEFINITIONS.

In this Act:

(1) BEAR VISCERA.—The term ''bear viscera'' means the body fluids or internal organs, including the gallbladder and its contents but not including blood or brains, of a species of bear.

(2) IMPORT.—The term ''import'' means to land on, bring into, or introduce into any place subject to the jurisdiction of the United States, whether or not the landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States.

(3) PERSON.—The term ''person'' means—

(A) an individual, corporation, partnership, trust, association, or other private entity;

(B) an officer, employee, agent, department, or instrumentality of—

(i) the Federal Government;

(ii) any State, municipality, or political subdivision of a State; or

(iii) any foreign government;

(C) a State, municipality, or political subdivision of a State; and

(D) any other entity subject to the jurisdiction of the United States.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(5) STATE.—The term ''State'' means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, and any other territory, commonwealth, or possession of the United States.

(6) TRANSPORT.—The term ''transport'' means to move, convey, carry, or ship by any means, or to deliver or receive for the purpose of movement, conveyance, carriage, or shipment.

SEC. 5. PROHIBITED ACTS.

(a) IN GENERAL.—Except as provided in subsection (b), a person shall not—

(1) import into, or export from, the United States bear viscera or any product, item, or substance containing, or labeled or advertised as containing, bear viscera; or

(2) sell or barter, offer to sell or barter, purchase, possess, transport, deliver, or receive, in interstate or foreign commerce, bear viscera or any product, item, or substance containing, or labeled or advertised as containing, bear viscera.

(b) EXCEPTION FOR WILDLIFE LAW ENFORCEMENT PURPOSES.—A person described in subparagraph (B) or (C) of section 4(3) may import into, or export from, the United States, or transport between States, bear viscera or any product, item, or substance containing, or labeled or advertised as containing, bear viscera if the importation, exportation, or transportation—

(1) is solely for wildlife law enforcement purposes; and

(2) is authorized by a valid permit issued under Appendix I or II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (27 UST 1087; TIAS 8249), in any case in which such a permit is required under the Convention.

SEC. 6. PENALTIES AND ENFORCEMENT.

(a) CRIMINAL PENALTIES.—A person that knowingly violates section 5 shall be fined under title 18, United States Code, imprisoned not more than 1 year, or both.

(b) CIVIL PENALTIES.—

(1) AMOUNT.—A person that knowingly violates section 5 may be assessed a civil penalty by the Secretary of not more than $25,000 for each violation.

(2) MANNER OF ASSESSMENT AND COLLECTION.—A civil penalty under this subsection shall be assessed, and may be collected, in the manner in which a civil penalty under the Endangered Species Act of 1973 may be assessed and collected under section 11(a) of that Act (16 U.S.C. 1540(a)).

(c) PRODUCTS, ITEMS, AND SUBSTANCES.—Any bear viscera, or any product, item, or substance sold, imported, or exported, or attempted to be sold, imported, or exported, in violation of this section (including any regulation issued under this section) shall be seized and forfeited to the United States.

(d) REGULATIONS.—After consultation with the Secretary of the Treasury, the Secretary of Health and Human Services, and the United States Trade Representative, the Secretary shall issue such regulations as are necessary to carry out this section.

(e) ENFORCEMENT.—The Secretary, the Secretary of the Treasury, and the Secretary of the department in which the Coast Guard is operating shall enforce this section in the manner in which the Secretaries carry out enforcement activities under section 11(e) of the Endangered Species Act of 1973 (16 U.S.C. 1540(e)).

(f) USE OF PENALTY AMOUNTS.—Amounts received as penalties, fines, or forfeiture of property under this section shall be used in accordance with section 6(d) of the Lacey Act Amendments of 1981 (16 U.S.C. 3375(d)).

SEC. 7. DISCUSSIONS CONCERNING TRADE PRACTICES.

The Secretary and the Secretary of State shall discuss issues involving trade in bear viscera with the appropriate representatives of countries trading with the United States that are determined by the Secretary and the United States Trade Representative to be the leading importers, exporters, or consumers of bear viscera, and attempt to establish coordinated efforts with the countries to protect bears.

SEC. 8. REPORT.

Not later than 1 year after the date of enactment of this Act, the Secretary, in cooperation with appropriate State agencies, shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Resources of the House of Representatives a report detailing the progress of efforts to end the illegal trade in bear viscera.

[From the Virginia Department of Game and Inland Fisheries, Jan. 18, 1999]

JOINT EFFORT TACKLES POACHERS, ILLEGAL BEAR TRADE

LURAY, VIRGINIA.—Earlier today, nearly 100 state and federal officers arrested almost three dozen defendants charged with more than 150 state wildlife violations. Officers executed approximately a dozen search warrants to further the investigation into the illegal trade of bear parts. The action is part of the continuing investigation Operation SOUP, or Special Operation to Uncover Poaching. The operation is expected to yield one of the largest prosecutions in the nation's history for crimes relating to bear poaching and illegal trade in bear parts. Operation SOUP is a joint effort of the Virginia

Department of Game and Inland Fisheries (VDGIF), the National Park Service, and the U.S. Fish & Wildlife Service.

Operation SOUP's three-year undercover investigation involves a three-pronged approach targeting the commercialization of bear parts used in the jewelry trade; bear gall bladder and paw trafficking; and poaching by individuals associated with specific groups suspected of supplying bear parts. In addition to the arrests made today, more misdemeanor and felony indictments may follow in the weeks and months ahead as this joint effort identifies other individuals involved in poaching and commercial trafficking of bear parts. By working together, these government agencies have been able to increase their manpower and resources to combat the illegal sale of bear parts.

A major aspect of the investigation focuses on the bear gall bladder trade. This worldwide market is driven by the demand for its use in traditional Asian medicine. Since the substantial decline of the Asian bear populations, the American black bear has been targeted for this trade. One bear gall bladder may sell overseas at auction for thousands of dollars. Dried and ground to a fine powder it is sold by the gram at a street value greater than cocaine.

Details of Operation SOUP will be announced at a press conference to be held tomorrow, Tuesday, January 19, at 1 PM, at the Shenandoah National Park administrative headquarters on U.S. Route 211 east of Luray, Virginia and west of the Skyline Drive.

[From the Virginia Department of Game and Island Fisheries, Jan. 19, 1999]

SUCCESSFUL JOINT EFFORT TACKLES POACHERS, ILLEGAL BEAR TRADE

LURAY VIRGINIA.—On Monday, January 18, 1999, nearly 110 state and federal officers arrested 25 defendants charged with 112 wildlife violations, and executed 14 search warrants as part of Operation SOUP, or ''Special Operation to Uncover Poaching''. Operation SOUP is a major, on-going, undercover investigation into illegal hunting and commercialization of American black bears in Virginia and in Shenandoah National Park. This three-year investigation has been a joint operation of the Virginia Department of Game and Inland Fisheries, the National Park Service, and the U.S. Fish & Wildlife Service. Much of the investigation has been concentrated in the Blue Ridge region of Virginia. Upon its completion, Operation SOUP is expected to yield one of the largest prosecutions in the nation's history for crimes relating to bear poaching and illegal trade in bear parts.

Operation SOUP utilizes a three-pronged approach to combat this criminal activity. The first has targeted the sale of bear parts, mostly claws and teeth, for use in the jewelry trade. Sales of intact bear paws used to make ashtrays and other trinkets also fall into this category. This investigation has confirmed that in Virginia there is active trade in bear parts used for jewelry. Independent of yesterday's arrests, over the last eight months 12 individuals have been arrested and charged with 94 counts of buying or selling bear parts in violation of state law.

The second prong of Operation SOUP has targeted trafficking of gall bladders and frozen bear paws. This aspect of the investigation has confirmed that significant trade in gall bladders and bear paws out of Virginia exists, including from bears within and around Shenandoah National Park.

To further this portion of the investigation, 11 federal search warrants were executed in Madison and Rappanhannock Counties in Virginia, and near Petersburg, West Virginia. They were issued on a combination of homes, businesses and vehicles. Seized were five vehicles, several freezers, and an assortment of bear parts, firearms, and cash. Federal felony indictments may be forthcoming in the weeks and months ahead. Three arrests made on Monday have connections with trafficking of bear parts. Additional details will be released as they become available.

The third prong of Operation SOUP has targeted the poachers themselves. These individuals are associated with specific groups that are suspected of being a source of bear parts for commercial trade. On Monday, 22 individuals were arrested and charged with a total of 107 state wildlife violations. Although bear may be legally taken in Virginia by legitimate sportsmen, these individuals are accused of using illegal hunting practices to harvest bears. Undercover investigations in this portion of the operation indicated that some of these individuals may also have engaged in bear poaching within Shenandoah National Park where it is unlawful to hunt. This is still under investigation and may result in federal indictments for illegal hunting within the park being passed down in the weeks or months ahead.

At the heart of Operation SOUP are concerns about an international problem that has a toehold in Virginia. The bear gall bladder trade is a worldwide industry driven by the demand for its use in traditional Asian medicine. Many people from Asian cultures believe bear parts, particularly the gall bladder, have medicinal value for treating and preventing a variety of ailments. A single gall bladder can be sold at auction overseas for thousands of dollars. Dried, ground and sold by the gram, bear gall bladders have a street value greater than cocaine. In this operation, 300 gall bladders were purchased or seized with an estimated U.S. value of $75,000 and an international value of more than $3 million dollars. Bear paws also have high commercial value. Bear paws are purchased as an ingredient in Bear Paw Soup, considered a delicacy in some ethnic Asian restaurants. A single bowl of this soup can sell for hundreds of dollars overseas. The serious decline in the Asian black bear population has lead to the American black bear being targeted for this trade. The government agencies behind Operation SOUP are deeply concerned about these activities and will continue to investigate illegal bear poaching and trafficking of bear parts.

[From the Washington Post, Feb. 16, 1999]

BEAR POACHING ON RISE ON SHENANDOAH REGION

(By Maria Glod and Leef Smith)

It was early January when the call came in on Jeffrey Pascale's unlisted phone line: The goods were available. Was he interested?

A date was set, and Pascale agreed to meet James Presgraves at a roadside dinner in Stanley, Va. The deal was completed several miles away at Presgrave's home, where he allegedly removed an assortment of bear gallbladders from the freezer and Pascale, an undercover U.S. Park Ranger, paid him $925 for six of the golf ball-size organs.

The purchase of the bear organs was documented last month in affidavits filed in U.S. District Court in Roanoke in support of search warrants and signaled to the close of a three-year state and federal investigation into what authorities said was a highly profitable loosely organized bear-poaching ring operating in Virginia's Blue Ridge mountains. Instead of killing the bears just for their meat and fur, officials said, poachers were harvesting the animals for their paws and gallbladders, which can sell for hundreds of dollars in this country and thousands of dollars in Asia.

No charges have been filed against Presgraves.

As bear populations dwindle in other parts of the world—victims of excessive hunting and disappearing habitats—poaching has become increasingly lucrative in North America, where an estimated 400,000 bears live. Each year, hundreds of bear carcasses turn up, intact except for missing gallbladders, paws and claws, according to testimony given to Congress.

Gallbladders and the green bile they store are prized in Asia, where they are used in medicine to treat a variety of ailments, including heart disease and hangovers. Bear paw soup is considered a delicacy in some Asian cultures and is sold—off the menu—in some restaurants for as much as $60 a bowl, investigators say.

''People are willing to pay any amount of money [for a bear product] if they want it really bad,'' said Andrea Gaski of the World Wildlife Fund, which monitors bear poaching.

While bear hunting is legal in Virginia, it is illegal, as in most states, to sell the animal's body parts—including gallbladders, heads, hides, claws or teeth. Bear hunting is not permitted in Maryland. Last year, Congress considered, but did not pass, legislation aimed at halting the trade in bear organs.

In Virginia, hunters legally kill 600 to 900 bears each hunting season. Officials say it is unclear how many more of the population of about 4,000 bears are taken by poachers. In the most recent investigation, law enforcement officials seized about 300 gallbladders and arrested 25 people. They have been charged with offenses ranging from illegally buying wildlife parts, a felony, to misdemeanor hunting violations. Authorities said that some of the charges stem from selling jewelry made with bear claws or teeth, while others target alleged traffickers in the bear organs. Officials say that some of the parts sold in Virginia are hunted legally. The federal investigation is continuing.

The state and federal investigation in Virginia began in 1996 when investigators began receiving tips from hunters about poaching in and around Shenandoah National Park, officials said.

Agents ultimately infiltrated the local ring, accompanying poachers on hunts and posed as middlemen.

''Some of those people were blatant enough that if you left a business card saying, ''I want to buy gallbladders,' at a hunting lodge, they would call you back,'' said Don Patterson, a supervisor with the U.S. Fish and Wildlife Service who helped lead the investigation.

According to documents filed in U.S. District Court in Roanoke, Pascale met six times during 1997 and 1998 with Bonnie Sue and Danny Ray Baldwin at their home in Sperryville, Va., to purchase bear gallbladders and paws.

During the course of his investigation, according to the affidavit filed in support of a search warrant application, the Baldwins told Pascale they had been in business for 13 years, selling about 300 gallbladders annually to customers in Maryland, New York and the District.

According to court records, the Baldwins said they obtained their bear parts from several sources including hunt clubs, farmers and orchards, as well as from the bears that Danny Baldwin bagged by hunting or trapping.

No charges have been filed against the Baldwins.

Investigators compare the illegal trade in bear parts to drug trafficking, saying the poachers typically work through a middleman who delivers the gallbladders and paws to either local or overseas Asian markets.

Nationwide, federal authorities have intercepted 70 shipments of bear parts headed to Asian markets in the past five years, according to U.S. Fish and Wildlife officials.

''If you don't watch this situation and keep your fingers on the pulse, you can quickly look at it and say, 'Where did [the bears] all go?' '' said William Woodfin, director of the Virginia Department of Game and Inland Fisheries. ''We have an obligation to future generations to make sure the black bear will be there for them to enjoy.''

CONF. 10.8—CONSERVATION OF AND TRADE IN BEARS

Aware that all populations of bear species are included either in Appendix I or Appendix II of the Convention;

Recognizing that bears are native to Asia, Europe, North America and South America and, therefore, the issue of bear conservation is a global one;

Noting that the continued illegal trade in parts and derivatives of bear species undermines the effectiveness of the Convention and that if CITES Parties and States not-party do not take action to eliminate such trade, poaching may cause declines of wild bears that could lead to the extirpation of certain populations or even species;

Recognizing that long-term solutions for the protection and conservation of bears require the adoption of substantive and measurable actions;

The Conference of the Parties to the Convention urges all Parties, particularly bear range and consuming countries, to take immediate action in order to demonstrably reduce the illegal trade in bear parts and derivatives by the 11th meeting of the Conference of the Parties, by:

(a) confirming, adopting or improving their national legislation to control the import and export of bear parts and derivatives, ensuring that the penalties for violations are sufficient to deter illegal trade;

(b) increasing CITES enforcement by providing additional resources, nationally and internationally, for wildlife trade controls;

(c) strengthening measures to control illegal export as well as import of bear parts and derivatives;

(d) initiating or encouraging new national efforts in key producers and consumer countries to identify, target and eliminate illegal markets;

(e) developing international training programmes on enforcement of wildlife laws for field personnel, with a specific focus on bear parts and derivatives, and exchanging field techniques and intelligence; and

(f) developing bilateral and regional agreements for conservation and law enforcement efforts;

Recommends that all Parties review and strengthen measures, where necessary, to enforce the provisions of the Convention relating to specimens of species included in Appendices I and II, where bear parts and derivatives are concerned;

Recommends further that Parties and States not-party, as a matter of urgency, address the issues of illegal trade in bear parts and derivatives by:

(a) strengthening dialogue between government agencies, industry, consumer groups and conservation organizations to ensure that legal trade does not provide a conduit for illegal trade in parts and derivatives of Appendix-I bears and to increase public awareness of CITES trade controls;

(b) encouraging bear range and consumer countries that are not party to CITES to accede to the Convention as a matter of urgency;

(c) providing funds for research on the status of endangered bears, especially Asian species;

(d) working with traditional-medicine communities to reduce demand for bear parts and derivatives, including the active promotion of research on and use of alternatives and substitutes that do not endanger other wild species; and

(e) developing programmes in co-operation with traditional-medicine communities and conservation organizations to increase public awareness and industry knowledge about the conservation concerns associated with the trade in bear specimens and the need for stronger domestic trade controls and conservation measures; and

Calls upon all governments and intergovernmental organizations, international aid agencies and non-governmental organizations to provide, as a matter of urgency, funds and other assistance to stop the illegal trade in bear parts and derivatives and to ensure the survival of all bear species.

By Mr. LOTT:

S. 1110. A bill to amend the Public Health Service Act to establish the National Institute of Biomedical Imaging and Engineering; to the Committee on Health, Education, Labor, and Pensions.

NATIONAL INSTITUTE OF BIOMEDICAL IMAGING AND ENGINEERING ESTABLISHMENT ACT

Mr. LOTT. Mr. President, I am pleased to introduce today the National Institute of Biomedical Imaging and Engineering Establishment Act. The bill would create a concentrated focus at the National Institutes of Health (NIH) on biomedical imaging and bioengineering.

Imaging has been on the forefront of many of our advances in early diagnosis and treatment of disease. Innovative technologies have greatly reduced the need for invasive surgery and provided a remarkable tool for early detection of disease. Breakthroughs in imaging research have direct application to advances in molecular biology and molecular genetics, accelerating the development of new gene therapies and genetic screening.

Despite the revolutionary influence of imaging on both research and treatment, the NIH traditionally has not concentrated basic research efforts on the imaging sciences. The bill I am introducing today ensures that research is not only focused in this important field, but that its applications are disseminated across disease fields. The bill also encourages information sharing among federal agencies. Many agencies, such as NASA, do basic imaging research. We should be committed to ensuring that all advances that have applications in our fight against disease are shared with our medical community.

I am proud of the commitment that this Congress has made to the National Institutes of Health. We have demonstrated our determination to provide increased federal resources in the fight against disease. I believe that the establishment of a National Institute of Biomedical Imaging and Engineering will compliment those efforts.

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. 1110

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 ''National Institute of Biomedical Imaging and Engineering Establishment Act''.

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) Basic research in imaging, bioengineering, computer science, informatics, and related fields is critical to improving health care but is fundamentally different from the research in molecular biology on which the current national research institutes at the National Institutes of Health (referred to in this section as the ''NIH'') are based. To ensure the development of new techniques and technologies for the 21st century, these disciplines therefore require an identity and research home at the NIH that is independent of the existing institute structure.

(2) Advances based on medical research promise new, more effective treatments for a wide variety of diseases, but the development of new, noninvasive imaging techniques for earlier detection and diagnosis of disease is essential to take full advantage of such new treatments and to promote the general improvement of health care.

(3) The development of advanced genetic and molecular imaging techniques is necessary to continue the current rapid pace of discovery in molecular biology.

(4) Advances in telemedicine, and teleradiology in particular, are increasingly important in the delivery of high quality, reliable medical care to rural citizens and other underserved populations. To fulfill the promise of telemedicine and related technologies fully, a structure is needed at the NIH to support basic research focused on the acquisition, transmission, processing, and optimal display of images.

(5) A number of Federal departments and agencies support imaging and engineering research with potential medical applications, but a central coordinating body, preferably housed at the NIH, is needed to coordinate these disparate efforts and facilitate the transfer of technologies with medical applications.

(6) Several breakthrough imaging technologies, including magnetic resonance imaging (MRI) and computed tomography (CT), have been developed primarily abroad, in large part because of the absence of a home at the NIH for basic research in imaging and related fields. The establishment of a central focus for imaging and bioengineering research at the NIH would promote both scientific advance and U.S. economic development.

(7) At a time when a consensus exists to add significant resources to the NIH in coming years, it is appropriate to modernize the structure of the NIH to ensure that research dollars are expended more effectively and efficiently and that the fields of medical science that have contributed the most to the detection, diagnosis, and treatment of disease in recent years receive appropriate emphasis.

(8) The establishment of a National Institute of Biomedical Imaging and Engineering at the NIH would accelerate the development of new technologies with clinical and research applications, improve coordination and efficiency at the NIH and throughout the Federal Government, reduce duplication and waste, lay the foundation for a new medical

information age, promote economic development, and provide a structure to train the young researchers who will make the pathbreaking discoveries of the next century.

SEC. 3. ESTABLISHMENT OF NATIONAL INSTITUTE OF BIOMEDICAL IMAGING AND ENGINEERING.

(a) IN GENERAL.—Part C of title IV of the Public Health Service Act (42 U.S.C. 285 et seq.) is amended by adding at the end the following:

''Subpart 18—National Institute of Biomedical Imaging and Engineering

''SEC. 464Z. PURPOSE OF THE INSTITUTE.

''(a) IN GENERAL.—The general purpose of the National Institute of Biomedical Imaging and Engineering (in this section referred to as the 'Institute') is the conduct and support of research, training, the dissemination of health information, and other programs with respect to biomedical imaging, biomedical engineering, and associated technologies and modalities with biomedical applications (in this section referred to as 'biomedical imaging and engineering').

''(b) NATIONAL BIOMEDICAL IMAGING AND ENGINEERING PROGRAM.—

''(1) ESTABLISHMENT.—The Director of the Institute, with the advice of the Institute's advisory council, shall establish a National Biomedical Imaging and Engineering Program (in this section referred to as the 'Program').

''(2) ACTIVITIES.—Activities under the Program shall include the following with respect to biomedical imaging and engineering:

''(A) Research into the development of new techniques and devices.

''(B) Related research in physics, engineering, mathematics, computer science, and other disciplines.

''(C) Technology assessments and outcomes studies to evaluate the effectiveness of biologics, materials, processes, devices, procedures, and informatics.

''(D) Research in screening for diseases and disorders.

''(E) The advancement of existing imaging and engineering modalities, including imaging, biomaterials, and informatics.

''(F) The development of target-specific agents to enhance images and to identify and delineate disease.

''(G) The development of advanced engineering and imaging technologies and techniques for research from the molecular and genetic to the whole organ and body levels.

''(H) The development of new techniques and devices for more effective interventional procedures (such as image-guided interventions).

''(3) PLAN.—

''(A) IN GENERAL.—With respect to the Program, the Director of the Institute shall prepare and transmit to the Secretary and the Director of NIH a plan to initiate, expand, intensify, and coordinate activities of the Institute with respect to biomedical imaging and engineering. The plan shall include such comments and recommendations as the Director of the Institute determines appropriate. The Director of the Institute shall periodically review and revise the plan and shall transmit any revisions of the plan to the Secretary and the Director of NIH.

''(B) RECOMMENDATIONS.—The plan under subparagraph (A) shall include the recommendations of the Director of the Institute with respect to the following:

''(i) Where appropriate, the consolidation of programs of the National Institutes of Health for the express purpose of enhancing support of activities regarding basic biomedical imaging and engineering research.

''(ii) The coordination of the activities of the Institute with related activities of the other agencies of the National Institutes of Health and with related activities of other Federal agencies.

''(c) ADVISORY COUNCIL.—The establishment under section 406 of an advisory council for the Institute is subject to the following:

''(1) The number of members appointed by the Secretary shall be 12.

''(2) Of such members—

''(A) 6 members shall be scientists, engineers, physicians, and other health professionals who represent disciplines in biomedical imaging and engineering and who are not officers or employees of the United States; and

''(B) 6 members shall be scientists, engineers, physicians, and other health professionals who represent other disciplines and are knowledgeable about the applications of biomedical imaging and engineering in medicine, and who are not officers or employees of the United States.

''(3) EX OFFICIO MEMBERS.—In addition to the ex officio members specified in section 406(b)(2), the ex officio members of the advisory council shall include the Director of the Centers for Disease Control and Prevention, the Director of the National Science Foundation, and the Director of the National Institute of Standards and Technology (or the designees of such officers).

''(d) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—Subject to paragraph (2), for the purpose of carrying out this section:

''(A) For fiscal year 2000, there is authorized to be appropriated an amount equal to the amount obligated by the National Institutes of Health during fiscal year 1999 for biomedical imaging and engineering, except that such amount shall be adjusted to offset any inflation occurring after October 1, 1998.

''(B) For each of the fiscal years 2001 and 2002, there is authorized to be appropriated an amount equal to the amount appropriated under subparagraph (A) for fiscal year 2000, except that such amount shall be adjusted for the fiscal year involved to offset any inflation occurring after October 1, 1999.

''(2) REDUCTION.—The authorization of appropriations for a fiscal year under paragraph (1) is hereby reduced by the amount of any appropriation made for such year for the conduct or support by any other national research institute of any program with respect to biomedical imaging and engineering.''.

(b) USE OF EXISTING RESOURCES.—In providing for the establishment of the National Institute of Biomedical Imaging and Engineering pursuant to the amendment made by subsection (a), the Director of the National Institutes of Health (referred to in this subsection as the ''NIH'')—

(1) may transfer to the National Institute of Biomedical Imaging and Engineering such personnel of the NIH as the Director determines to be appropriate;

(2) may, for quarters for such Institute, utilize such facilities of the NIH as the Director determines to be appropriate; and

(3) may obtain administrative support for the Institute from the other agencies of the NIH, including the other national research institutes.

(c) CONSTRUCTION OF FACILITIES.—None of the provisions of this Act or the amendments made by the Act may be construed as authorizing the construction of facilities, or the acquisition of land, for purposes of the establishment or operation of the National Institute of Biomedical Imaging and Engineering.

(d) DATE CERTAIN FOR ESTABLISHMENT OF ADVISORY COUNCIL.—Not later than 90 days after the effective date of this Act, the Secretary of Health and Human Services shall complete the establishment of an advisory council for the National Institute of Biomedical Imaging and Engineering in accordance with section 406 of the Public Health Service Act and in accordance with section 464Z of such Act (as added by subsection (a) of this section).

(e) CONFORMING AMENDMENT.—Section 401(b)(1) of the Public Health Service Act (42 U.S.C. 281(b)(1)) is amended by adding at the end the following:

''(R) The National Institute of Biomedical Imaging and Engineering.''.

SEC. 4. EFFECTIVE DATE.

This Act shall take effect on October 1, 1999, or upon the date of the enactment of this Act, whichever occurs later.

By Mr. BOND:

S. 1111. A bill to provide continuing authorization for a National Conference on Small Business, and for other purposes; to the Committee on Small Business.

NATIONAL CONFERENCE ON SMALL BUSINESS ACT

Mr. BOND. Mr. President, it is with great pleasure that I am introducing the ''National Conference on Small Business Act.'' This bill is designed to create a permanent independent commission that will carry-on the extraordinary work that has been accomplished by three White House Conferences on Small Business.

For the past 15 years, small businesses have been the fastest growing sector of the U.S. economy. When large businesses were restructuring and laying off significant numbers of workers, small businesses not only filled the gap, but their growth actually caused a net increase in new jobs. Today, small businesses employ 55% of all workers in the United States and they generate 50% of the gross domestic product. Were it not for small businesses, our country could not have experienced the sustained economic upsurge that has been ongoing since 1992.

Because small businesses play such a significant role in our economy, in both rural towns and bustling inner cities, I believe it is important that the Federal government sponsor a national conference every four years to highlight the successes of small businesses and to focus national attention on the problems that may be hindering the ability of small businesses to start up and grow.

Small business ownership is, has been, and will continue to be the dream of millions of Americans. Countries from all over the world send delegations to the United States to study why our system of small business ownership is so successful, all the while looking for a way to duplicate our success in their countries. Because we see and experience the successes of small businesses on a daily basis, it is easy to lose sight of the very special thing we have going for us in the United States—where each of us can have the opportunity to own and run our own business.

The ''National Conference on Small Business Act'' is designed to capture and focus our attention on small business every four years. In this way, we

will take the opportunity to study what is happening throughout the United States to small businesses. In one sense, the bill is designed to put small business on a pinnacle so we can appreciate what they have accomplished. At the same time, and just as important, every four years we will have an opportunity to learn from small businesses in each state what is not going well for them—such as, actions by the Federal government that hinder small business growth or state and local regulations that are a deterrent to starting a business.

My bill creates an independent, bipartisan National Commission on Small Business, which will be made up of 8 small business advocates and the Small Business Administration's Chief Counsel for Advocacy. Every four years, during the first year following a presidential election, the President will name two National Commissioners. In the U.S. Senate and the House of Representatives, the Majority Leader of each body will name two National Commissioners and the Minority Leaders will each name one.

Widespread participation from small businesses in each state will contribute to the work leading up to the National Conference. Under the bill, the National Conference will take place one year after the National Commissioners are appointed. The first act of the Commissioners will be to request that each Governor and each U.S. Senator name a small business delegate and alternate delegate from their respective states to the National Convention. Each U.S. Representative will name a small business delegate and alternative from his or her Congressional district. And the President will name a delegate and alternate from each state.

The small business delegates will play a major role leading up to the National Conference on Small Business. There will be at least one meeting of the delegates at their respective State Conferences. We will be looking to the small business delegates to develop and highlight issues of critical concern to small businesses. The work at the state level by the small business delegates will need to be thorough and thoughtful to make the National Conference a success.

My goal will be for the small business delegates to think broadly, that is, to think ''out of the box.'' Their attention should include but not be restricted to the traditional issues associated with small business concerns, such as access to capital, tax reform and regulatory reform. In my role as Chairman of the Committee on Small Business, I will urge the delegates to focus on a wide array of issues that impact significantly on small businesses, including the importance of a solid education and the need for skilled, trained workers.

Once the small business delegates are selected, the National Commission on Small Business will serve as a resource to the delegates for issue development and for planning the State Conferences. The National Commission will have a modest staff, including an Executive Director, that will work full time to make the State and National Conferences successes. A major resource to the National Commission and its staff will be the Chief Counsel for Advocacy from SBA. The Chief Counsel and the Office of Advocacy will serve as a major resource to the National Commission, and in turn, to the small business delegates, by providing them with both substantive background information and other administrative materials in support of the State and National Conferences.

Mr. President, small businesses generally do not have the resources to maintain full time representatives to lobby our Federal government. They are too busy running their businesses to devote much attention to educating government officials as to what is going well, what is going poorly, and what needs improvement for the small business community. The National Conference on Small Business will give small businesses an opportunity every four years to make its mark on the Congress and the Executive Branch. I urge each of my colleagues to review this proposal, and I hope they will agree to join me as cosponsors of the ''National Conference on Small Business Act.''

I ask unanimous consent that the full text of the bill and the 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:

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 ''National Conference on Small Business Act''.

SEC. 2. DEFINITIONS.

In this Act—

(1) the term ''Administrator'' means the Administrator of the Small Business Administration;

(2) the term ''Chief Counsel'' means the Chief Counsel for Advocacy of the Small Business Administration;

(3) the term ''National Commission'' means the National Commission on Small Business established under section 6;

(4) the term ''National Conference''—

(A) means the National Conference on Small Business conducted under section 3(a); and

(B) includes the last White House Conference on Small Business occurring before 2002;

(5) the term ''small business'' has the meaning given the term ''small business concern'' under section 3 of the Small Business Act;

(6) the term ''State'' means any of the 50 States of the United States; and

(7) the term ''State Conference'' means a State Conference on Small Business conducted under section 3(b).

SEC. 3. NATIONAL AND STATE CONFERENCES ON SMALL BUSINESS.

(a) NATIONAL CONFERENCES.—There shall be a National Conference on Small Business once every 4 years, to be held during the second year following each Presidential election, to carry out the purposes specified in section 4.

(b) STATE CONFERENCES.—Each National Conference referred to in subsection (a) shall be preceded by a State Conference on Small Business, with not fewer than 1 such conference held in each State, and with not fewer than 2 such conferences held in any State having a population of more than 10,000,000.

SEC. 4. PURPOSES OF NATIONAL CONFERENCES.

The purposes of each National Conference shall be—

(1) to increase public awareness of the contribution of small business to the Nation's economy;

(2) to identify the problems of small business;

(3) to examine the status of minorities and women as small business owners;

(4) to assist small business in carrying out its role as the Nation's job creator;

(5) to assemble small businesses to develop such specific and comprehensive recommendations for legislative and regulatory action as may be appropriate for maintaining and encouraging the economic viability of small business and thereby, the Nation; and

(6) to review the status of recommendations adopted at the immediately preceding National Conference on Small Business.

SEC. 5. CONFERENCE PARTICIPANTS.

(a) IN GENERAL.—To carry out the purposes specified in section 4, the National Commission shall conduct National and State Conferences to bring together individuals concerned with issues relating to small business.

(b) CONFERENCE DELEGATES.—

(1) APPOINTMENTS.—Only individuals who are owners or officers of a small business shall be eligible for appointment as delegates (or alternates) to the National and State Conferences pursuant to this subsection, and such appointments shall consist of—

(A) 1 delegate (and 1 alternate) appointed by each Governor of each State;

(B) 1 delegate (and 1 alternate) appointed by each Member of the House of Representatives, from the congressional district of that Member;

(C) 1 delegate (and 1 alternate) appointed by each Member of the Senate from the home State of that Member; and

(D) 50 delegates (and 50 alternates) appointed by the President, 1 from each State.

(2) POWERS AND DUTIES.—Delegates to each National Conference—

(A) shall attend the State conferences in his or her respective State;

(B) shall conduct meetings and other activities at the State level before the date of the National Conference, subject to the approval of the National Commission; and

(C) shall direct such State level conferences, meetings, and activities toward the consideration of the purposes of the National Conference specified in section 4, in order to prepare for the next National Conference.

(3) ALTERNATES.—Alternates shall serve during the absence or unavailability of the delegate.

(c) ROLE OF THE CHIEF COUNSEL.—The Chief Counsel for Advocacy of the Small Business Administration shall, after consultation and in coordination with the National Commission, assist in carrying out the National and State Conferences required by this Act by—

(1) preparing and providing background information and administrative materials for use by participants in the conferences;

(2) distributing issue information and administrative communications, electronically where possible through an Internet web site and e-mail, and in printed form if requested; and

(3) maintaining an Internet site and regular e-mail communications after each National Conference to inform delegates and

the public of the status of recommendations and related governmental activity.

(d) EXPENSES.—Each delegate (and alternate) to each National and State Conference shall be responsible for his or her expenses related to attending the conferences, and shall not be reimbursed either from funds appropriated pursuant to this section or the Small Business Act.

(e) ADVISORY COMMITTEE.—

(1) IN GENERAL.—The National Commission shall appoint a Conference Advisory Committee consisting of 10 individuals who were participants at the last preceding National Conference.

(2) PREFERENCE.—Preference for appointment under this subsection shall be given to those who have been active participants in the implementation process following the prior National Conference.

(f) PUBLIC PARTICIPATION.—National and State Conferences shall be open to the public, and no fee or charge may be imposed on such attendee, other than an amount necessary to cover the cost of any meal provided, plus a registration fee to defray the expense of meeting rooms and materials of not to exceed $15 per person.

SEC. 6. NATIONAL COMMISSION ON SMALL BUSINESS.

(a) ESTABLISHMENT.—There is established the National Commission on Small Business.

(b) MEMBERSHIP.—

(1) APPOINTMENT.—The National Commission shall be composed of 9 members, including—

(A) the Chief Counsel for Advocacy of the Small Business Administration;

(B) 2 members appointed by the President;

(C) 2 members appointed by the majority leader of the Senate;

(D) 1 member appointed by the minority leader of the Senate;

(E) 2 members appointed by the majority leader of the House of Representatives; and

(F) 1 member appointed by the minority leader of the House of Representatives.

(2) SELECTION.—Members of the National Commission shall be selected among distinguished individuals noted for their knowledge and experience in fields relevant to the issue of small business and the purposes of this Act.

(3) TIME OF APPOINTMENT.—The appointments required by paragraph (1) shall be made 1 year before the opening date of each National Conference, and shall expire 9 months after the date on which each National Conference is convened.

(c) ELECTION OF CHAIRPERSON.—At the first meeting of each National Commission, a majority of the members of the National Commission present and voting shall elect the Chairperson of the National Commission.

(d) POWERS AND DUTIES OF COMMISSION.—The National Commission—

(1) may enter into contracts with public agencies, private organizations, and academic institutions to carry out this Act;

(2) shall consult, coordinate, and contract with an independent, nonpartisan organization that—

(A) has both substantive and logistical experience in developing and organizing conferences and forums throughout the Nation with elected officials and other government and business leaders;

(B) has experience in generating private resource from multiple States in the form of event sponsorships; and

(C) can demonstrate evidence of a working relationship with Members of Congress from the majority and minority parties, and at least 1 Federal agency; and

(3) shall prescribe such financial controls and accounting procedures as needed for the handling of funds from fees and charges and the payment of authorized meal, facility, travel, and other related expenses.

(e) PLANNING AND ADMINISTRATION OF CONFERENCES.—In carrying out the National and State Conferences required by this Act, the National Commission shall consult with the Office of Advocacy of the Small Business Administration, the Congress, and such other Federal agencies as it deems appropriate.

(f) REPORTS REQUIRED.—Not later than 6 months after the date on which each National Conference is convened, the National Commission shall submit to the President and to the chairpersons and ranking minority Members of the Committees on Small Business of the Senate and the House of Representatives a final report, which shall—

(1) include the findings and recommendations of the National Conference and any proposals for legislative action necessary to implement those recommendations; and

(2) be made available to the public.

(g) QUORUM.—4 voting members of the National Commission shall constitute a quorum for purposes of transacting business.

(h) MEETINGS.—The National Commission shall meet not later than 20 calendar days after the appointment of all members, and at least every 30 calendar days thereafter.

(i) VACANCIES.—Any vacancy of the National Commission shall not affect its powers, but shall be filled in the manner in which the original appointment was made.

(j) EXECUTIVE DIRECTOR AND STAFF.—The National Commission may appoint and compensate an Executive Director and such other personnel to conduct the National and State Conferences as it may deem advisable, without regard to title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, except that the rate of pay for the Executive Director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(k) FUNDING.—Members of the National Commission shall be allowed travel expenses, including per diem in lieu of subsistence at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the National Commission.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS; AVAILABILITY OF FUNDS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out each National and State Conference required by this Act, $5,000,000, which shall remain available until expended. New spending authority or authority to enter contracts as provided in this Act shall be effective only to such extent and in such amounts as are provided in advance in appropriation Acts.

(b) SPECIFIC EARMARK.—No amount made available to the Small Business Administration may be made available to carry out this Act, other than amounts made available specifically for the purpose of conducting the National Conferences.

NATIONAL CONFERENCE ON SMALL BUSINESS ACT—SECTION-BY-SECTION

Section 1. Short Title.

The name of the Act will be the ''National Conference on Small Business Act.''

Section 2. Definitions.

This section defines key words and terms included in the bill.

Section 3. National And State Conferences on Small Business.

This section states that a National Conference on Small Business will occur every four years during the second year after a presidential election. Prior to the National Conference, there will be State Conferences for the delegates in each state.

Section 4. Purposes of National Conferences.

This section sets forth the reasons for having a National Conference on Small Business.

Section 5. Conference Participants.

Subsection (a) directs the National Commission to conduct National and State Conferences to bring together individuals interested in issues affecting small businesses.

Subsection (b) sets forth the procedures for selecting delegates to the State and National Conferences. A delegates must be an owner or officer of a small business. The Governors and U.S. Senators will each appoint a delegate and alternative delegate from their respective states. U.S. Representatives will each appoint a delegate and alternate from their respective congressional districts, and the President will appoint a delegate and alternate from each state. The delegates will be able to conduct meetings and will attend a State Conference in their respective states before the National Conference is held.

Subsection (c) describes the role of SBA's Chief Counsel for Advocacy.

Subsection (d) explains that the delegates will be responsible for their own expenses and will not be reimbursed from appropriated funds.

Subsection (e) directs the National Commission to appoint an Advisory Committee of 10 persons who were participants at the last preceding National Conference.

Subsection (f) states that all State and National Conferences will be open to the public and no fee greater than $15 can be charged to people who wish to attend a conference.

Section 6. National Commission on Small Business.

Subsection (a) authorizes the establishment of a National Commission on Small Business.

Subsection (b) defines the membership of the National Commission. It will include the SBA Chief Counsel for Advocacy, 2 members appointed by the President, 3 members from the Senate (2 majority, 1 minority), and 3 members from the House of Representatives (2 majority, 1 minority). The appointments will be made 1 year before the opening date of the National Conference and will expire 9 months after the National Conference has concluded.

Subsection (c) sets forth the election of a Chairperson.

Subsection (d) permits the National Commission to enter into contracts with public agencies, private organizations, academic institutions, and independent, nonpartisan organizations to carry out the State and National Conferences.

Subsection (e) directs the National Commission to consult with the Office of Advocacy at SBA, Congress, and Federal agencies in carrying out the State and National Conferences.

Subsection (f) requires that the National Commission submit a report to the Chairmen and Ranking minority Members of the Senate and House Committees on Small Business within 6 months after the conclusion of the National Conference.

Subsection (g) establishes a quorum of 4 members of the National Commission for purposes of transacting business.

Subsection (h) requires the National Commission to hold its first meeting within 20 days after the appointment of all members and at least every 30 days thereafter.

Subsection (i) states that vacancies on the National Commission will be filled in the same manner as the original appointments were made.

Subsection (j) authorizes the National Commission to hire an Executive Director

and the staff necessary to conduct the State and National Conferences.

Subsection (k) authorizes the National Commission to reimburse its members for travel expenses, including per diem.

Section 7. Authorization of Appropriations; Availability of Funds.

This section authorizes $5 million to cover all expense incurred under this Act. It states that funds from SBA may not support the Act unless specifically earmarked for that purpose.

By Mrs. BOXER (for herself and Mr. LAUTENBERG):

S. 1112. A bill to protect children and other vulnerable subpopulations from exposure to environmental pollutants, to protect children from exposure to pesticides in schools, and to provide parents with information concerning toxic chemicals that pose risks to children, and for other purposes; to the Committee on Environment and Public Works.

CHILDREN'S ENVIRONMENTAL PROTECTION ACT

Mrs. BOXER. Mr. President, today I am pleased to introduce a bill to protect children from the dangers posed by pollution and toxic chemicals in our environment. My Children's Environmental Protection Act (CEPA) is based on the understanding that children are more vulnerable to those dangers than adults, and require special protection.

In fact, we know that the physiology of children and their exposure patterns to toxic and harmful substances differ from that of adults, and make them more susceptible to the dangers posed by those substances than adults. Children face greater exposure to such substances because they eat more food, drink more water, and breathe more air as a percentage of their body weight than adults. Children are also rapidly growing, and therefore physiologically more vulnerable to such substances than adults.

How is this understanding that children suffer higher risks from the dangers posed by toxic and harmful substances than adults taken into account in our environmental and public health standards? Do we gather and consider data that specifically evaluates how those substances affect children?

If that data is lacking, do we apply extra caution when we determine the amount of toxics that can be released into the air and water, the level of harmful contaminants that may be present in our drinking water, or the amount of pesticides that may be present in our food?

In most cases, the answer to all of these questions is ''no.''

In fact, most of these standards are designed to protect adults rather than children. In most cases, we don't even have the data that would allow us to measure how those substances specifically affect children. And, finally, in the face of that uncertainty, we generally assume that what we don't know about the dangers toxic and harmful substances pose to our children won't hurt them.

We generally don't apply extra caution to take account of that uncertainty.

CEPA would change the answers to those questions from ''no'' to ''yes.'' It would childproof our environmental laws. CEPA is based on the premise that what we don't know about the dangers toxic and harmful substances pose to our children may very well hurt them.

CEPA would require the Environmental Protection Agency (EPA) to set environmental and public health standards to protect children. It would specifically require EPA to explicitly consider the dangers that toxic and harmful substances pose to children when setting those standards. Finally, if EPA discovers that it does not have specific data that would allow it to measure those dangers, EPA would be required to apply an additional safety factor—an additional measure of caution—to account for that lack of information.

As work would move forward under CEPA to childproof our environmental standards, CEPA would provide parents and teachers with a number of tools to immediately protect their children from toxic and harmful substances.

First, CEPA would require EPA to provide all schools and day care centers that receive federal funding a copy of EPA's guide to help schools adopt a least toxic pest management policy. CEPA would also prohibit the use of dangerous pesticides—those containing known or probable carcinogens, reproductive toxins, acute nerve toxins and endocrine disrupters—in those areas. Under CEPA, parents would also receive advance notification before pesticides are applied on school or day care center grounds.

Second, CEPA would expand the federal Toxics Release Inventory (TRI) to require the reporting of toxic chemical releases that may pose special risks to children. In particular, CEPA provides that releases of small amounts of lead, mercury, dioxin, cadmium and chromium be reported under TRI. These chemicals are either highly toxic, persist in the environment or can accumulate in the human body over many years—all features which render them particularly dangerous to children.

Lead, for example, will seriously affect a child's development, but is still released into the environment through lead smelting and waste incineration. CEPA would then require EPA to identify other toxic chemicals that may present special risks to children, and to provide that releases of those chemicals be reported under TRI.

Finally, CEPA would direct EPA to create a list of recommended safer-for-children products that minimize potential risks to children. CEPA would also require EPA to create a family right-to-know information kit that would include practical suggestions to help parents reduce their children's exposure to toxic and harmful substances in the environment.

My CEPA bill is based on the premise that what we don't know about the dangers toxic and harmful substances pose to our children may very well hurt them. It would require EPA to apply caution in the face of that uncertainty. And, ultimately, it would childproof our environmental laws to ensure that those laws protect the most vulnerable among us—our children.

I am hopeful that my House and Senate colleagues can act quickly to ensure the passage of my legislation.

I ask unanimous consent that the full text of my legislation be printed in the RECORD.

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

S. 1112

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 ''Children's Environmental Protection Act.''

SEC. 2. ENVIRONMENTAL PROTECTION FOR CHILDREN AND OTHER VULNERABLE SUBPOPULATIONS.

The Toxic Substances Control Act (15 U.S.C. 2601 et. seq.) is amended by adding at the end the following:

''TITLE V—ENVIRONMENTAL PROTECTION FOR CHILDREN AND OTHER VULNERABLE SUBPOPULATIONS

''SEC. 501. FINDINGS AND POLICY.

''(a) FINDINGS.—Congress finds that—

''(1) the protection of public health and safety depends on individuals and government officials being aware of the pollution dangers that exist in their homes, schools, and communities, and whether those dangers present special threats to the health of children and other vulnerable subpopulations;

''(2) children spend much of their young lives in schools and day care centers, and may face significant exposure to pesticides and other environmental pollutants in those locations;

''(3) the metabolism, physiology, and diet of children, and exposure patterns of children to environmental pollutants differ from those of adults and can make children more susceptible than adults to the harmful effects of environmental pollutants;

''(4) a study conducted by the National Academy of Sciences that particularly considered the effects of pesticides on children concluded that current approaches to assessing pesticide risks typically do not consider risks to children and, as a result, current standards and tolerances often fail to adequately protect children;

''(5) there are often insufficient data to enable the Administrator, when establishing a environmental and public health standard for an environmental pollutant, to evaluate the special susceptibility or exposure of children to environmental pollutants;

''(6) when data are lacking to evaluate the special susceptibility or exposure of children to an environmental pollutant, the Administrator generally does not presume that the environmental pollutant presents a special risk to children and generally does not apply a special or additional margin of safety to protect the health of children in establishing an environmental or public health standard for that pollutant; and

''(7) safeguarding children from environmental pollutants requires the systematic collection of data concerning the special susceptibility and exposure of children to those pollutants, and the adoption of an additional safety factor of at least 10-fold in the establishment of environmental and public health

standards where reliable data are not available.

''(b) POLICY.—It is the policy of the United States that—

''(1) the public has the right to be informed about the pollution dangers to which children are being exposed in their homes, schools and communities, and how those dangers may present special health threats to children and other vulnerable subpopulations;

''(2) each environmental and public health standard for an environmental pollutant established by the Administrator must, with an adequate margin of safety, protect children and other vulnerable subpopulations;

''(3) where data sufficient to evaluate the special susceptibility and exposure of children (including exposure in utero) to an environmental pollutant are lacking, the Administrator should presume that the environmental pollutant poses a special risk to children and should apply an appropriate additional margin of safety of at least 10-fold in establishing an environmental or public health standard for that environmental pollutant;

''(4) since it is difficult to identify all conceivable risks and address all uncertainties associated with pesticide use, the use of dangerous pesticides in schools and day care centers should be eliminated; and

''(5) the Environmental Protection Agency, the Department of Health and Human Services (including the National Institute of Environmental Health Sciences and the Agency for Toxic Substances and Disease Registry), the National Institutes of Health, and other Federal agencies should support research on the short-term and long-term health effects of cumulative and synergistic exposures of children and other vulnerable subpopulations to environmental pollutants.

''SEC. 502. DEFINITIONS.

''In this title:

''(1) CHILD.—The term 'child' means an individual 18 years of age or younger.

''(2) DAY CARE CENTER.—The term 'day care center' means a center-based child care provider that is licensed, regulated, or registered under applicable State or local law.

''(3) ENVIRONMENTAL POLLUTANT.—The term 'environmental pollutant' includes a hazardous substance subject to regulation under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601), a drinking water contaminant subject to regulation under the Safe Drinking Water Act (42 U.S.C. 300f et seq), an air pollutant subject to regulation under the Clean Air Act (42 U.S.C. 7401 et seq.), a water pollutant subject to regulation under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), and a pesticide subject to regulation under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.).

''(4) PESTICIDE.—The term 'pesticide' has the meaning given the term in section 2 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136).

''(5) SCHOOL.—The term 'school' means an elementary school (as defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801)), a secondary school (as defined in section 14101 of that Act), a kindergarten, or a nursery school that is public or receives Federal funding.

''(6) VULNERABLE SUBPOPULATION.—The term 'vulnerable subpopulation' means children, pregnant women, the elderly, individuals with a history of serious illness, and other subpopulations identified by the Administrator as being likely to experience special health risks from environmental pollutants.

''SEC. 503. SAFEGUARDING CHILDREN AND OTHER VULNERABLE SUBPOPULATIONS.

''(a) IN GENERAL.—The Administrator shall—

''(1) ensure that each environmental and public health standard for an environmental pollutant protects children and other vulnerable subpopulations with an adequate margin of safety;

''(2) explicitly evaluate data concerning the special susceptibility and exposure of children to any environmental pollutant for which an environmental or public health standard is established; and

''(3) adopt an additional margin of safety of at least 10-fold in the establishment of an environmental or public health standard for an environmental pollutant in the absence of reliable data on toxicity and exposure of the child to an environmental pollutant or if there is a lack of reliable data on the susceptibility of the child to an environmental pollutant for which the environmental and public health standard is being established.

''(b) ESTABLISHING, MODIFYING, OR REEVALUATING ENVIRONMENTAL AND PUBLIC HEALTH STANDARDS.—

''(1) IN GENERAL.—In establishing, modifying, or reevaluating any environmental or public health standard for an environmental pollutant under any law administered by the Administrator, the Administrator shall take into consideration available information concerning—

''(A) all routes of children's exposure to that environmental pollutant;

''(B) the special susceptibility of children to the environmental pollutant, including neurological differences between children and adults, the effect of in utero exposure to that environmental pollutant, and the cumulative effect on a child of exposure to that environmental pollutant and other substances having a common mechanism of toxicity.

''(2) ADDITIONAL SAFETY MARGIN.—If any of the data described in paragraph (1) are not available, the Administrator shall, in completing a risk assessment, risk characterization, or other assessment of risk underlying an environmental or public health standard, adopt an additional margin of safety of at least 10-fold to take into account potential pre-natal and post-natal toxicity of an environmental pollutant, and the completeness of data concerning the exposure and toxicity of an environmental pollutant to children.

''(c) IDENTIFICATION AND REVISION OF CURRENT ENVIRONMENTAL AND PUBLIC HEALTH STANDARDS THAT PRESENT SPECIAL RISKS TO CHILDREN.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of this title and annually thereafter, based on the recommendations of the Children's Environmental Health Protection Advisory Committee established under section 507, the Administrator shall—

''(A) repromulgate, in accordance with this section, at least 3 of the environmental and public health standards identified by the Children's Environmental Health Protection Advisory Committee as posing a special risk to children; or

''(B) publish a finding in the Federal Register that provides the Administrator's basis for declining to repromulgate at least 3 of the environmental and public health standards identified by the Children's Environmental Health Protection Advisory Committee as posing a special risk to children.

''(2) DETERMINATION BY ADMINISTRATOR.—If the Administrator makes the finding described in paragraph (1)(B), the Administrator shall repromulgate in accordance with this section at least 3 environmental and public health standards determined to pose a greater risk to children's health than the environmental and public health standards identified by the Children's Environmental Health Protection Advisory Committee.

''(3) REPORT.—Not later than 1 year after the date of enactment of this title and annually thereafter, the Administrator shall submit a report to Congress describing the progress made by the Administrator in carrying out this subsection.

''SEC. 504. PROTECTING CHILDREN FROM EXPOSURE TO PESTICIDES IN SCHOOLS.

''(a) IN GENERAL.—Each school and day care center that receives Federal funding shall—

''(1) take steps to reduce the exposure of children to pesticides on school grounds, both indoors and outdoors; and

''(2) provide parents with advance notification of any pesticide application on school grounds in accordance with subsection (b).

''(b) LEAST TOXIC PEST CONTROL STRATEGY.—

''(1) IN GENERAL.—The Administrator shall distribute to each school and day care center the current manual of the Environmental Protection Agency that guides schools and day care centers in the establishment of a least toxic pest control strategy.

''(2) LIST.—Not later than 180 days after the date of enactment of this Act and annually thereafter, the Administrator shall provide each school and day care center with a list of pesticides that contain a substance that the Administrator has identified as a known or probable carcinogen, a developmental or reproductive toxin, a category I or II acute nerve toxin, or a known or suspected endocrine disrupter as identified by the endocrine disrupter screening program of the Environmental Protection Agency.

''(3) PROHIBITION OF PESTICIDE APPLICATION.—Effective beginning on the date that is 2 years after the date of enactment of this Act, any school or day care center that receives Federal funding shall not apply any pesticide described in paragraph (2), either indoors or outdoors.

''(4) EMERGENCY EXEMPTION.—

''(A) IN GENERAL.—An administrator of a school or day care center may suspend the prohibition under paragraph (3) for a period of not more than 14 days if the administrator determines that a pest control emergency poses an imminent threat to the health and safety of the school or day care center community.

''(B) NOTICE.—

''(i) IN GENERAL.—Prior to exercising the authority under this paragraph, an administrator shall give notice to the board of the school or day care center of the reasons for finding that a pest control emergency exists.

''(ii) ACTION TAKEN.—An administrator that exercises the authority under subparagraph (A) shall report any action taken by personnel or outside contractors in response to the pest control emergency to the board of the school or day care center at the next scheduled meeting of the board.

''(c) PARENTAL NOTICE PRIOR TO ANY PESTICIDE APPLICATION.—

''(1) IN GENERAL.—An administrator of the school or day care center shall provide written notice to parents not later than 72 hours before any indoor or outdoor pesticide application on the grounds of the school or day care center.

''(2) CONTENTS OF NOTICE.—A notice under this subsection shall include a description of the intended area of application and the name of each pesticide to be applied.

''(3) FORM.—A pesticide notice under this subsection may be incorporated into any notice that is being sent to parents at the time the pesticide notice is required to be sent.

''(4) WARNING SIGN.—

''(A) IN GENERAL.—An administrator of a school or day care center shall post at any area in the area of the school or day care center where a pesticide is to be applied a warning sign that is consistent with the label of the pesticide and prominently displays the term 'warning', 'danger', or 'poison'.

''(B) PERIOD OF DISPLAY.—During the period that begins not less than 24 hours before the application of a pesticide and ends not less than 72 hours after the application, a sign under this subparagraph shall be displayed in a location where it is visible to all individuals entering the area.

''SEC. 505. SAFER ENVIRONMENT FOR CHILDREN.

''(a) IN GENERAL.—Not later than 1 year after the date of enactment of this title, the Administrator shall—

''(1) identify environmental pollutants commonly used or found in areas that are reasonably accessible to children;

''(2) create a scientifically peer reviewed list of substances identified under paragraph (1) with known, likely, or suspected health risks to children;

''(3) create a scientifically peer reviewed list of safer-for-children substances and products recommended by the Administrator for use in areas that are reasonably accessible to children that, when applied as recommended by the manufacturer, will minimize potential risks to children from exposure to environmental pollutants;

''(4) establish guidelines to help reduce and eliminate exposure of children to environmental pollutants in areas reasonably accessible to children, including advice on how to establish an integrated pest management program;

''(5) create a family right-to-know information kit that includes a summary of helpful information and guidance to families, such as the information created under paragraph (3), the guidelines established under paragraph (4), information on the potential health effects of environmental pollutants, practical suggestions on how parents may reduce their children's exposure to environmental pollutants, and other relevant information, as determined by the Administrator in cooperation with the Director of the Centers for Disease Control and Prevention;

''(6) make all information created pursuant to this subsection available to Federal and State agencies, the public, and on the Internet; and

''(7) review and update the lists created under paragraphs (2) and (3) at least once each year.''.

SEC. 3. ADDITIONAL REPORTING OF TOXIC CHEMICAL RELEASES THAT AFFECT CHILDREN.

Section 313(f)(1) of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11023(f)(1)) is amended by adding at the end the following:

''(C) CHILDREN'S HEALTH.—

''(i) IN GENERAL.—With respect to each of the toxic chemicals described in clause (ii) that are released from a facility, the amount described in clause (iii).

''(ii) CHEMICALS.—Not later than 2 years after the date of enactment of this subparagraph, the Administrator shall identify each toxic chemical that the Administrator determines may present a significant risk to children's health or the environment due to the potential of that chemical to bioaccumulate, disrupt endocrine systems, remain in the environment, or other characteristics, including—

''(I) any chemical or group of chemicals that persists in any environmental medium for at least 60 days (as defined by half life) or that have bioaccumulation or bioconcentration factors greater than 1,000;

''(II) any chemical or group of chemicals that, despite a failure to meet the specific persistence or bioaccumulation measuring criteria described in subclause (I), can be reasonably expected to degrade into a substance meeting those criteria; and

''(III) lead, mercury, dioxin, cadmium, and chromium and pollutants that are bioaccumulative chemicals of concern listed in subparagraph (A) of table 6 of the tables to part 132 of title 40, Code of Federal Regulations.

''(iii) THRESHOLD.—The Administrator shall establish a threshold for each toxic chemical described in clause (ii) at a level that shall ensure reporting for at least 80 percent of the aggregate of all releases of the chemical from facilities that—

''(I) have 10 or more full-time employees; and

''(II) are in Standard Industrial Classification Codes 20 through 39 or in the Standard Industrial Classification Codes under subsection (b)(1)(B).

''(iv) ADDITIONAL FACILITIES.—If the Administrator determines that a facility other than a facility described in clause (iii) contributes substantially to total releases of toxic chemicals described in clause (ii), the Administrator shall require that facility to comply with clause (iii).''.

SEC. 4. RESEARCH TO IMPROVE INFORMATION ON THE EFFECTS OF ENVIRONMENTAL POLLUTANTS ON CHILDREN.

The Toxic Substances Control Act (15 U.S.C. 2601 et seq.) (as amended by section 2) is amended by adding at the end the following:

''SEC. 506. RESEARCH TO IMPROVE INFORMATION ON THE EFFECTS OF ENVIRONMENTAL POLLUTANTS ON CHILDREN.

''(a) EXPOSURE AND TOXICITY DATA.—The Administrator, the Secretary of Agriculture, and the Secretary of Health and Human Services shall coordinate and support the development and implementation of basic and applied research initiatives to examine the health effects and toxicity of pesticides (including active and inert ingredients) and other environmental pollutants on children and other vulnerable subpopulations, and the exposure of children and vulnerable subpopulations to environmental pollutants.

''(b) BIENNIAL REPORTS.—The Administrator, the Secretary of Agriculture, and the Secretary of Health and Human Services shall submit biennial reports to Congress describing actions taken to carry out this section.''.

SEC. 5. CHILDREN'S ENVIRONMENTAL HEALTH PROTECTION ADVISORY COMMITTEE.

The Toxic Substances Control Act (15 U.S.C. 2601 et seq.) (as amended by section 4) is amended by adding at the end the following:

''SEC. 507. CHILDREN'S ENVIRONMENTAL HEALTH PROTECTION ADVISORY COMMITTEE.

''(a) ESTABLISHMENT.—The Administrator shall establish a Children's Environmental Health Protection Advisory Committee to assist the Administrator in carrying out this title.

''(b) COMPOSITION.—The Committee shall be comprised of medical professionals specializing in pediatric health, educators, representatives of community groups, representatives of environmental and public health nonprofit organizations, industry representatives, and State environmental and public health department representatives.

''(c) DUTIES.—Not later than 2 years after the date of enactment of this title and annually thereafter, the Committee shall develop a list of standards that merit reevaluation by the Administrator in order to better protect children's health.

''(d) TERMINATION.—The Committee shall terminate not later than 15 years after the date on which the Committee is established.

''SEC. 508. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title.''.

ADDITIONAL COSPONSORS

S. 285

At the request of Mr. MCCAIN, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 285, a bill to amend title II of the Social Security Act to restore the link between the maximum amount of earnings by blind individuals permitted without demonstrating ability to engage in substantial gainful activity and the exempt amount permitted in determining excess earnings under the earnings test.

S. 299

At the request of Mr. BAUCUS, his name was added as a cosponsor of S. 299, a bill to elevate the position of Director of the Indian Health Service within the Department of Health and Human Services to Assistant Secretary for Indian Health, and for other purposes.

S. 331

At the request of Mr. JEFFORDS, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 331, a bill to amend the Social Security Act to expand the availability of health care coverage for working individuals with disabilities, to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide such individuals with meaningful opportunities to work, and for other purposes.

S. 434

At the request of Mr. BREAUX, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 434, a bill to amend the Internal Revenue Code of 1986 to simplify the method of payment of taxes on distilled spirits.

S. 511

At the request of Mr. MCCAIN, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 511, a bill to amend the Voting Accessibility for the Elderly and Handicapped Act to ensure the equal right of individuals with disabilities to vote, and for other purposes.

S. 512

At the request of Mr. GORTON, the names of the Senator from Utah (Mr. BENNETT), the Senator from Massachusetts (Mr. KERRY), and the Senator from North Dakota (Mr. DORGAN) were added as cosponsors of S. 512, a bill to amend the Public Health Service Act to provide for the expansion, intensification, and coordination of the activities of the Department of Health and Human Services with respect to research on autism.

S. 514

At the request of Mr. COCHRAN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 514, a bill to improve the National Writing Project.

S. 542

At the request of Mr. ABRAHAM, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. 542, a bill to amend the Internal Revenue Code of 1986 to expand the deduction for computer donations to schools and allow a tax credit for donated computers.

S. 573

At the request of Mr. KENNEDY, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 573, a bill to provide individuals with access to health information of which they are a subject, ensure personal privacy with respect to health-care- related information, impose criminal and civil penalties for unauthorized use of protected health information, to provide for the strong enforcement of these rights, and to protect States' rights.

S. 622

At the request of Mr. KENNEDY, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 622, a bill to enhance Federal enforcement of hate crimes, and for other purposes.

S. 632

At the request of Mr. DEWINE, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 632, a bill to provide assistance for poison prevention and to stabilize the funding of regional poison control centers.

S. 676

At the request of Mr. CAMPBELL, the names of the Senator from Georgia (Mr. CLELAND) and the Senator from Florida (Mr. MACK) were added as cosponsors of S. 676, a bill to locate and secure the return of Zachary Baumel, a citizen of the United States, and other Israeli soldiers missing in action.

S. 680

At the request of Mr. HATCH, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 680, a bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit, and for other purposes.

S. 693

At the request of Mr. HELMS, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 693, a bill to assist in the enhancement of the security of Taiwan, and for other purposes.

S. 749

At the request of Mr. KENNEDY, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 749, a bill to establish a program to provide financial assistance to States and local entities to support early learning programs for prekindergarten children, and for other purposes.

S. 800

At the request of Mr. BURNS, the names of the Senator from Mississippi (Mr. LOTT) and the Senator from Florida (Mr. MACK) were added as cosponsors of S. 800, a bill to promote and enhance public safety through the use of 9-1-1 as the universal emergency assistance number, further deployment of wireless 9-1-1 service, support of States in upgrading 9-1-1 capabilities and related functions, encouragement of construction and operation of seamless, ubiquitous, and reliable networks for personal wireless services, and for other purposes.

S. 834

At the request of Mr. CAMPBELL, the name of the Senator from Florida (Mr. MACK) was added as a cosponsor of S. 834, a bill to withhold voluntary proportional assistance for programs and projects of the International Atomic Energy Agency relating to the development and completion of the Bushehr nuclear power plant in Iran, and for other purposes.

S. 836

At the request of Mr. SPECTER, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 836, a bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require that group health plans and health insurance issuers provide women with adequate access to providers of obstetric and gynecological services.

S. 848

At the request of Mrs. FEINSTEIN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 848, a bill to designate a portion of the Otay Mountain region of California as wilderness.

S. 880

At the request of Mr. INHOFE, the names of the Senator from Alabama (Mr. SHELBY), and the Senator from Utah (Mr. BENNETT) were added as cosponsors of S. 880, a bill to amend the Clean Air Act to remove flammable fuels from the list of substances with respect to which reporting and other activities are required under the risk management plan program

S. 895

At the request of Mr. LIEBERMAN, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 895, a bill to provide for the establishment of Individual Development Accounts (IDAs) that will allow individuals and families with limited means an opportunity to accumulate assets, to access education, to own their own homes and businesses, and ultimately to achieve economic self-sufficiency, and for other purposes.

S. 924

At the request of Mr. NICKLES, the name of the Senator from Texas (Mr. GRAMM) was added as a cosponsor of S. 924, a bill entitled the ''Federal Royalty Certainty Act.''

S. 1022

At the request of Mr. DORGAN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1022, a bill to authorize the appropriation of an additional $1,700,000,000 for fiscal year 2000 for health care for veterans.

S. 1033

At the request of Mrs. FEINSTEIN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1033, a bill to amend title IV of the Social Security Act to coordinate the penalty for the failure of a State to operate a State child support disbursement unit with the alternative penalty procedure for failures to meet data processing requirements.

S. 1063

At the request of Ms. COLLINS, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 1063, a bill to amend title XVIII of the Social Security Act to provide for a special rule for long existing home health agencies with partial fiscal year 1994 cost reports in calculating the per beneficiary limits under the interim payment system for such agencies.

S. 1070

At the request of Mr. BOND, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 1070, a bill to require the Secretary of Labor to wait for completion of a National Academy of Sciences study before promulgating a standard, regulation or guideline on ergonomics.

S. 1077

At the request of Mr. SCHUMER, the names of the Senator from North Dakota (Mr. CONRAD) and the Senator from Montana (Mr. BAUCUS) were added as cosponsors of S. 1077, a bill to dedicate the new Amtrak station in New York, New York, to Senator DANIEL PATRICK MOYNIHAN.

SENATE CONCURRENT RESOLUTION 9

At the request of Ms. SNOWE, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of Senate Concurrent Resolution 9, a concurrent resolution calling for a United States effort to end restrictions on the freedoms and human rights of the enclaved people in the occupied area of Cyprus.

SENATE RESOLUTION 84

At the request of Ms. SNOWE, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of Senate Resolution 84, a resolution to designate the month of May, 1999, as ''National Alpha 1 Awareness Month.''

SENATE RESOLUTION 95

At the request of Mr. THURMOND, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of Senate Resolution 95, a resolution designating August 16, 1999, as ''National Airborne Day.''

SENATE RESOLUTION 99

At the request of Mr. REID, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of Senate

Resolution 99, a resolution designating November 20, 1999, as ''National Survivors for Prevention of Suicide Day.''

SENATE RESOLUTION 105—EXPRESSING THE SENSE OF THE SENATE RELATING TO CONSIDERATION OF SLOBODAN MILOSEVIC AS A WAR CRIMINAL

Mr. DORGAN (for himself, Mrs. FEINSTEIN, and Mr. SPECTER) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 105

Whereas the International Criminal Tribunal for the former Yugoslavia (in this resolution referred to as the ''International Criminal Tribunal'') has not sought indictment of Serbian President Slobodan Milosevic for war crimes committed by Yugoslav and Serbian military and paramilitary forces in Bosnia;

Whereas Serbian military and paramilitary forces have undertaken a massive ethnic cleansing campaign that has displaced more than one million Kosovar Albanians;

Whereas Serbian military and paramilitary forces have conducted a systematic effort to strip Kosovar Albanians of their identity by confiscating passports, birth certificates, employment records, driver's licenses, and other documents of identification;

Whereas the International Criminal Tribunal has collected evidence of summary executions, mass detentions, torture, rape, beatings, and other war crimes;

Whereas in 1992, the then-Secretary of State Lawrence Eagleburger identified Slobodan Milosevic as a war criminal;

Whereas the statute governing the International Criminal Tribunal requires that the office of the prosecutor need only determine that a prima facie case exists in order to seek indictment;

Whereas the House of Representatives and the Senate have previously passed resolutions condemning Serbian police actions in Kosovo and calling for Yugoslav leader Slobodan Milosevic to be indicted for war crimes;

Whereas the Administration has made no public attempt to urge the International Criminal Tribunal to seek an indictment against Slobodan Milosevic, despite the necessity of NATO air strikes to respond to his campaign of genocide: Now, therefore, be it

Resolved,

SECTION 1. SENSE OF SENATE.

It is the sense of the Senate that the President should—

(1) publicly declare, as a matter of United States policy, that the United States considers Slobodan Milosevic to be a war criminal; and

(2) urge the chief prosecutor of the International Criminal Tribunal to seek immediately an indictment of Slobodan Milosevic for war crimes and to prosecute him to the fullest extent of international law.

Mr. DORGAN. Mr. President, I am today submitting a resolution that will express the sense of the Senate that Slobodan Milosevic should be tried as a war criminal. My colleague, Senator SPECTER, and others, have also talked about this at some length on the floor of the Senate in recent months.

It is important, given where we are with the airstrikes in Kosovo, to think through this question about Slobodan Milosevic and why we are involved in an air campaign in that part of the world.

These are gruesome pictures, and I will only put one of these photos on the easel. But all of these people have names and have lives and have the human suffering that is visited upon them by Slobodan Milosevic. One million to 1.5 million people have been evicted from their homes and communities. Homes have been burned, and innocent civilians have been raped and beaten. Thousands have been massacred, and thousands more have been packed into train cars, reminiscent of the Jews who were hauled to the ovens by the Nazis in the 1940s.

This country and our allies decided we do not want history to record us as saying it doesn't matter. There is a moral imperative for us, where we can, when we can to take steps to stop ethnic cleansing, to stop the genocide, to stop someone like Slobodan Milosevic. So we commenced the airstrikes.

The very purpose of those airstrikes is underlined by the understanding that Mr. Milosevic is committing horrible war crimes against these ethnic Albanians. They have been driven from their homeland and subjected to rape, torture, and genocide at the hands of the troops commanded by Mr. Milosevic.

The question for these children and these innocent victims is: Shall we, as a country, push to have Mr. Milosevic tried in the International Criminal Tribunal for the former Yugoslavia?

The Tribunal exists for a very specific purpose. Should this country not be pressing very aggressively to have this leader, Mr. Milosevic, indicted and convicted of war crimes?

We made a mistake, in my judgment, with respect to Iraq. Saddam Hussein was never tried for war crimes. He committed many. He is one of the few leaders in the world who has murdered people in his own homeland with weapons of mass destruction, but we did not press for his conviction in an international tribunal. So now, instead of being a convicted war criminal, Saddam Hussein is still in power.

I understand that perhaps we would not have been able to arrest him, but at least in absentia evidence could be presented to say that this is a war criminal.

This monster, Slobodan Milosevic, and the despicable acts committed in his name by his troops, ought to persuade our country to support his indictment and conviction in the International Tribunal, which exists for that purpose.

Why would we not do that? I am told that, at some point there has to be a settlement to end this war, and those who are involved in the settlement do not want to be negotiating with a convicted war criminal. That doesn't make any sense to me. The very reason for launching the airstrikes was that this person and the troops under his leadership was committing unspeakable horrors against the ethnic Albanians, which, in my judgment, brands him a war criminal.

In fact, former Secretary of State Lawrence Eagleburger, who has a long and distinguished career, said in 1992 that Mr. Milosevic was a war criminal. And it is now 1999. Thousands have lost their lives; a million to a million and a half people have been driven from their homes; and the human misery visited on innocent men, women, and children by this leader, Slobodan Milosevic, ought to persuade this country immediately to press for his indictment and conviction—immediately—not tomorrow, not next week, now.

This country has an obligation to do that with our NATO allies.

I am submitting another resolution today, and the resolution is very simple.

It says:

It is the sense of the Senate that the President should publicly declare as a matter of United States policy that the United States considers Slobodan Milosevic to be a war criminal. And we urge the chief prosecutor of the International Criminal Tribunal to seek immediately an indictment of Slobodan Milosevic for war crimes and to prosecute him to the fullest extent of international law.

We have a responsibility to do this. The failure to do this, and a resulting negotiated settlement at some point down the line that would leave Slobodan Milosevic in power, would be, in my judgment, a tragic mistake. In or out of power, this leader ought to be branded a war criminal. Whether we apprehend him or not, he ought to be indicted and tried, in absentia, if necessary, with all of the evidence, including the graphic pictorial evidence and all of the statements that have been made by the folks who are pouring into these refugee camps.

I am not going to describe those statements, but last Wednesday the State Department released a tape verifying many of those statements. It brings tears to your eyes instantly to understand the unspeakable horrors that have been visited upon these people.

SENATE RESOLUTION 106—TO EXPRESS THE SENSE OF THE SENATE REGARDING ENGLISH PLUS OTHER LANGUAGES

Mr. DOMENICI (for himself, Mr. KENNEDY, Mr. MCCAIN, Mr. HATCH, Mrs. HUTCHISON, Mr. DEWINE, Mr. CHAFEE, Mr. LUGAR, Mr. ABRAHAM, Mr. SANTORUM, and Mr. WARNER) submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. RES. 106

Whereas English is the most widely used language in the areas of finance, trade, technology, diplomacy, and entertainment, and is the living library of the last 100 years of scientific and technological advance;

Whereas there are more speakers of English as a second language in the world

than there are native English speakers, and the large number of English language schools around the world demonstrates that English is as close as any language has been to becoming the world's common language;

Whereas Spanish exploration in the New World began in 1512 when Ponce de Leon explored the Florida peninsula, and included the expeditions of Francisco Coronado throughout California to Kansas and across Arizona, New Mexico, Texas, and Oklahoma from 1540 to 1542;

Whereas in 1998 the Nation commemorated the 400th anniversary of the first Spanish Settlement of the Southwest (Ohkay Yunge at San Juan Pueblo, New Mexico) with official visits from Spain, parades, fiestas, masses, and other celebrations to emphasize the importance of the first encounters with American Indian cultures and the subsequent importance of encounters with other European cultures;

Whereas El Paso, Texas, the first gateway for Spanish explorers in the Southwest, also celebrated its Quadricentennial commemorating the 400th anniversary of the colonization expedition of Don Juan Onate in New Mexico and Texas along the Camino Real;

Whereas Hispanic culture, customs, and the Spanish language are a vital source of familial and individual strength;

Whereas the Bureau of the Census estimates that 1 in 5 Americans will be of Hispanic descent by the year 2030, and the future cultural, political, and economic strengths of this country are clearly dependent upon our Nation's ability to harness the talents and skills of this large and growing segment of the American population;

Whereas one of the common bonds of Hispanic people is the Spanish language, and promoting the use of Spanish at home and in cultural affairs will benefit not only the growing Hispanic population of the United States but also the economic interests of the entire Nation;

Whereas English is the common language of the United States, is important to American life and individual success, and 94 percent of United States residents speak English according to the 1990 decennial census;

Whereas 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;

Whereas a common language promotes unity among citizens, and fosters greater communication;

Whereas there is a renaissance in cultural assertiveness around the world, noting that the more interdependent nations become economically, the more interested the nations are in preserving and sharing cultural identity;

Whereas the reality of a global economy is an ever-present international development that is fostered by international trade and the creation of regional trading blocs, such as the European Union, Mercosur, the North American Free Trade Agreement and the Association of Southeast Asian Nations;

Whereas knowledge of English, Spanish, French, Italian, Russian, German, Japanese, Chinese, Arabic, Korean, Vietnamese, African languages, Farsi, sign language, and the many other languages of the world, enhances competitiveness and tremendous growth in world trade;

Whereas the United States is well postured for the global economy and international development with the United States' diverse population and rich heritage of languages from all around the world;

Whereas many American Indian languages are indigenous to the United States, and should be preserved, encouraged, and utilized, as the languages were used during World War II when the Navajo Code Talkers created a code that could not be broken by the Japanese or the Germans;

Whereas it is clearly in the interest of the United States to encourage educational opportunity for and the human potential of all citizens, and to take steps to realize the opportunity and potential;

Whereas a skilled labor force is crucial to the competitiveness of the Nation in today's global economy, foreign language skills are a tremendous resource to the United States, and such foreign language skill enhances American competitiveness in global markets by permitting improved communication and understanding; and

Whereas knowledge of other languages and other cultures is known to enhance the United States diplomatic efforts by fostering greater communication and understanding between nations, and can promote greater understanding between different ethnic and racial groups within the United States: Now, therefore, be it

Resolved, That the United States Government should pursue policies that—

(1) support and encourage Americans to master the English language plus other languages of the world, with special emphasis on the growing importance of the Spanish language for our Nation's economic and cultural relationships with Mexico, Central America, and South America;

(2) recognize the value of the Spanish language to millions of Americans of Hispanic descent, who will be the Nation's largest minority by the year 2005, and will constitute one of every four Americans by the year 2030;

(3) recognize the importance of English as the unifying language of the United States, and the importance of English fluency for individuals who want to succeed in American society;

(4) recognize that command of the English language is a critical component of the success and productivity of our Nation's children, and should be encouraged at every age;

(5) recognize that a skilled labor force is crucial to United States competitiveness in a global economy, and the ability to speak 1 or more languages in addition to English is a significant skill;

(6) support literacy programs, including programs designed to teach English, as well as those dedicated to helping Americans learn and maintain other languages in addition to English; and

(7) develop our Nation's linguistic resources by encouraging citizens of the United States to learn and maintain Spanish, French, German, Japanese, Chinese, Russian, Arabic, Italian, Korean, Vietnamese, Farsi, African languages, sign language, and the many other languages of the world, in addition to English.

Mr. DOMENICI. Mr. President, today I am pleased to be joined by Senators KENNEDY, MCCAIN, HATCH, HUTCHISON, DEWINE, CHAFEE, LUGAR, ABRAHAM, SANTORUM, and WARNER in submitting our Senate Resolution on ''English-Plus.'' With this resolution, we are affirming the importance of mastering the English language plus other languages of the world, such as Spanish, Italian, German, Japanese, Chinese, Vietnamese, and many, many more.

English is the most widely used language in the world in the areas of finance, trade, technology, diplomacy, and entertainment. English is also the world's living library of the last 100 years of scientific and technological advances. There is no doubt that English is as close as any language in history to becoming the world's dominant language.

As Americans, we have always valued our ''melting pot'' ideal. The business of this country is conducted in English, and there is much pride in the ability to speak English as well as to read and write in one's native language. Those who know English and have mastered another language or two have a distinct advantage in a more competitive world.

As the son of an Italian immigrant, I can personally testify to the importance of the concept of English Plus. My father did not read or write in English, yet he insisted that I learn English first and do my best at speaking and writing Italian. My parents both spoke Spanish—a skill which they found very useful in establishing a wholesale grocery business in Albuquerque.

Tens of thousands of New Mexico families still speak Spanish at home. Spanish remains a strong tie to their culture, music, history, and folklore. After decades of being taught to learn English first, many thousands of New Mexico's Hispanic families also speak Spanish fluently.

In New Mexico, 1998 marked the 400th anniversary of the first permanent Spanish settlement near San Juan Pueblo in the Espanola Valley. Many celebrations and educational events marked this important anniversary. Hispanic culture, customs, and language received much attention throughout New Mexico. More than a third of New Mexico's population is Hispanic, and the Spanish language and culture have a special place in our state's distinctive blend of Spanish, Anglo, and Indian cultures.

New Mexico is the only state in the United States that has a constitutional requirement to use both English and Spanish in election materials and ballots.

In New Mexico, 37 percent of the people are Spanish-Americans or Mexican-Americans. The term ''Hispanic Americans'' is used in our country to describe Americans whose roots are in Spain, Mexico, Puerto Rico, Cuba, Central America, and South America. As U.S. News reported in the May 11, 1998, issue, ''the label Hispanic obscures the enormous diversity among people who come (or whose forebears came) from two dozen countries and whose ancestry ranges from pure Spanish to mixtures of Spanish blood with Native American, African, German, and Italian, to name a few hybrids.''

U.S. News also reported that ''The number of Hispanics is increasing almost four times as fast as the rest of the population, and they are expected to surpass African-Americans as the largest minority group by 2005.'' In the October 21, 1996, issue, U.S. News reported that ''Nearly 28 million people—1 American in 10—consider themselves

of Hispanic origin.'' By 2050, projections are that 1 in every 4 Americans will be Hispanic.

An article in The Economist of April 21, 1998, stresses the value of the Spanish language to America's fastest growing minority group. ''America's Latinos are rapidly becoming one of its most useful resources.''

In the western hemisphere, Spanish is clearly a prominent language. With established and emerging markets in Mexico, Central America, and South America, the Spanish language is a key to foreign competition in our own hemisphere.

As the world economy moves into the next century, it has become clear the ''domestic-only market planning'' has been replaced by the era of international trade agreements and the creation of regional trading blocs. In 1996, the total volume of trade with Mexico was estimated at $130 billion. Our trade with the rest of Latin America that same year was $101 billion.

Spanish is clearly a growing cultural and economic force in our hemisphere. It is also the common language of hundreds of millions of people. Recent economic trends of this decade show Latin America as the most promising future market for American goods and services.

With Latin America as the next great market partner of the United States, those Americans who know both English and Spanish will have many new grand opportunities. Mexico's recently hired and celebrated its one-millioneth maquiladora worker in international manufacturing plants along our border. This milestone event unquestionably shows the value of knowing two languages as manufacturing expands among the hundreds of Fortune 500 companies now manufacturing in Mexico.

Mr. President, I have long believed that New Mexico and other border states are uniquely poised to create the focal point of North American trade with South America. I agree with The Economist observation that ''America's Latinos are rapidly becoming one of its most useful resources.'' I predict that English Plus Spanish will be one of the major marketable skills for the next century.

In conclusion, I would like my colleagues to see the value of ''English Plus'' Spanish in our own hemisphere. ''English Plus'' and other European languages has long been a shared value, and ''English Plus'' African and Asian languages have become very important also. In every corner of the world, foreign languages matter to us for cultural, economic, and security reasons.

Worldwide, we see a renaissance in cultural assertiveness where countries take greater interest in preserving and sharing their own cultural identities. As nations grow more interdependent economically, there is a parallel interest in maintaining their own cultural integrity, with language as a key linchpin of cultural identity.

Mr. President, our nation's potential markets in Mexico, Central America, and South America alone spell a vital future for ''English Plus'' Spanish. If we want to continue to expand our nations's cultural and economic American influence in the world, then we urge the adoption of ''English Plus'' as our national policy. We believe this approach will lead to a more prosperous and secure world.

We believe we should not isolate America to English only and to do that would be a big mistake. The Senate resolution I am speaking of supports and encourages Americans to master English first and English plus other languages. We believe we should add to that, but not English only. We see English plus other languages as a more sensible statement of our national policy. Our Nation is rich in resources. We want to encourage American citizens to learn other prominent languages that the world uses and that we must use in the world and that many in our country use as part of their cultural background.

Mr. President, I ask unanimous consent that our resolution regarding English plus other languages be printed in the RECORD.

SENATE RESOLUTION 107—TO ESTABLISH A SELECT COMMITTEE ON CHINESE ESPIONAGE

Mr. SMITH (of New Hampshire) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 107

Resolved,

SECTION 1. ESTABLISHMENT OF THE SELECT COMMITTEE.

(a) IN GENERAL.—There is established a temporary Select Committee on Chinese Espionage (hereafter in this resolution referred to as the ''select committee'') which shall consist of 12 members, 6 to be appointed by the President pro tempore of the Senate upon recommendations of the Majority Leader from among members of the majority party, and 6 to be appointed by the President pro tempore of the Senate upon recommendations of the Minority Leader from among members of the minority party.

(b) CHAIRMAN.—The Majority Leader shall select the chairman of the select committee.

(c) VICE CHAIRMAN.—The Minority Leader shall select the vice chairman of the select committee.

(d) SERVICE OF A SENATOR.—The service of a Senator as a member or chairman on the select committee shall not count for purposes of paragraph 4 of rule XXV of the Standing Rules of the Senate.

(e) RULES AND PROCEDURES.—A majority of the members of the select committee shall constitute a quorum thereof for the transaction of business, except that the select committee may fix a lesser number as a quorum for the purpose of taking testimony. The select committee shall adopt rules of procedure not inconsistent with this resolution and the rules of the Senate governing standing committees of the Senate.

(f) VACANCIES.—Vacancies in the membership of the select committee shall not affect the authority of the remaining members to execute the functions of the select committee.

SEC. 2. JURISDICTION.

(a) IN GENERAL.—There shall be referred to the select committee, concurrently with referral to any other committee of the Senate with jurisdiction, all messages, petitions, memorials, and other matters relating to United States-China national security relations.

(b) EFFECT ON OTHER COMMITTEES JURISDICTION.—Nothing in this resolution shall be construed as prohibiting or otherwise restricting the authority of any other committee of the Senate or as amending, limiting, or otherwise changing the authority of any standing committee of the Senate.

SEC. 3. REPORTS.

The select committee may, for the purposes of accountability to the Senate, make such reports to the Senate with respect to matters within its jurisdiction as it shall deem advisable which shall be referred to the appropriate committee. In making such reports, the select committee shall proceed in a manner consistent with the requirements of national security.

SEC. 4. POWERS OF THE SELECT COMMITTEE.

(a) IN GENERAL.—For the purposes of this resolution, the select committee is authorized at its discretion—

(1) to make investigations into any matter within its jurisdiction;

(2) to hold hearings;

(3) to sit and act at any time or place during the sessions (subject to paragraph 5 of rule XXVI of the Standing Rules of the Senate), recesses, and adjourned periods of the Senate;

(4) to require, by subpoena or otherwise, the attendance of witnesses and the production of correspondence, books, papers, and documents;

(5) to make expenditures from the contingent fund of the Senate to carry out its functions and to employ personnel, subject to procedures of paragraph 9 of rule XXVI of the Standing Rules of the Senate; and

(6) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable basis the services of personnel of any such department or agency.

(b) OATHS.—The chairman of the select committee or any member thereof may administer oaths to witnesses.

(c) SUBPOENAS.—Subpoenas authorized by a majority of the select committee shall be issued over the signature of the chairman and may be served by any person designated by the chairman.

SEC. 5. TREATMENT OF CLASSIFIED INFORMATION.

(a) EMPLOYEES.—

(1) IN GENERAL.—No employee of the select committee or person engaged to perform services for or at the request of such committee unless such employee or person has—

(A) agreed in writing and under oath to be bound by the rules of the Senate and of such committee as to the security of such information during and after the period of his employment or relationship with such committee; and

(B) received an appropriate security clearance as determined by such committee in consultation with the Director of Central Intelligence.

(2) CLEARANCE.—The type of security clearance to be required in the case of any employee or person under paragraph (1) shall, within the determination of such committee in consultation with the Director of Central Intelligence, be commensurate with the sensitivity of the classified information to which such employee or person will be given access by such committee.

(b) SECURITY OFFICER.—The select committee shall designate a security officer

qualified to administer appropriate security procedures to ensure the protection of confidential and classified information in the possession of the select committee and shall make suitable arrangements, in consultation with the Office of Senate Security, for the physical protection and storage of classified information in its possession.

SEC. 6. TREATMENT OF PRIVATE INFORMATION.

(a) RULES AND PROCEDURES.—The select committee shall formulate and carry out such rules and procedures as it deems necessary to prevent the disclosure, without the consent of the person or persons concerned, of information in the possession of such committee which unduly infringes upon the privacy or which violates the constitutional rights of such person or persons.

(b) DISCLOSURE.—Nothing in this resolution shall be construed to prevent the select committee from publicly disclosing any such information in any case in which such committee determines the national interest in the disclosure of such information clearly outweighs any infringement on the privacy of any person or persons.

SEC. 7. PRESIDENTIAL REPRESENTATIVE.

The select committee is authorized to permit any personal representative of the President, designated by the President to serve as a liaison to such committee, to attend any closed meeting of such committee.

SEC. 8. TERMINATION OF SELECT COMMITTEE.

Unless specifically reauthorized, the select committee shall terminate at the end of the 106th Congress. Upon termination of the select committee, all records, files, documents, and other materials in the possession, custody, or control of the select committee, under appropriate conditions established by the select committee, shall be transferred to the Secretary of the Senate.

Mr. SMITH of New Hampshire. Mr. President, I rise today just as the Cox report is about to enter the public domain. This report—a bipartisan report by Congressman CHRIS COX of California and Congressman NORMAN DICKS of Washington—will go to an issue of great importance to the United States; it is the issue of Chinese espionage in the United States.

I am rising on the Senate floor today to introduce legislation—which I will do at the conclusion of my remarks—establishing a bipartisan select committee to examine Chinese espionage against United States national security interests, responding to what is increasingly being viewed as the greatest security breach against the United States in our history—the loss to China of our most sensitive nuclear warhead data over many years from the Los Alamos National Lab, and from other national security facilities and programs.

Through no one's fault, and with the best of intentions, congressional efforts to examine this matter have been disjointed and inconsistent. I respect every Senator on both sides of the aisle who has been working and doing their best to try to get to the bottom of this, especially the chairmen of those committees with some claim to jurisdiction over the Labs and over this whole issue of Chinese espionage.

Unfortunately, that is the problem. There are too many individuals conducting too many independent investigations, if you will, and too many committees going down the same path. The result has been a duplication of witnesses, many of whom have come back and testified four or five times before the Senate. I don't think this makes a lot of sense.

I think my colleagues on these respective committees—and I chair a subcommittee on the Armed Services Committee with direct jurisdiction over this matter, so I say that as one who would be involved in such an investigation—will agree that there is too much duplication. We need to streamline this effort and we need to put the full weight of the Senate behind it. That means an investigation, a true investigation, the power to call witnesses and administer oaths, and a unified focus of our shared bipartisan concern.

I have had the privilege to serve on two such bipartisan committees. One, the Senate Ethics Committee, is a nonpartisan committee, really, of three members from each party. We look at all the matters before us in a truly nonpartisan way. That is exactly what needs to be done here.

I also served on the Senate Select Committee on POWs and MIAs a few years ago, where Senator JOHN KERRY was the chairman and I was vice chairman. It was a bipartisan effort. That is what it is going to take in the Senate, just as the House has been well-served by its committee chaired by Congressman COX of California and Congressman DICKS of Washington. It was a bipartisan effort and it has come to a bipartisan—and unanimous—conclusion.

We need to do this in the Senate. We need to take what was in that report, review it carefully, find out where it leads, and take appropriate action. But I do not think we are going to accomplish that if we are going to have all of these witnesses called in five, six, seven, or eight times before all these different committees, and not have one consistent message. It will waste a lot of money and time. I think it is better to consolidate, which is why I am calling for a select committee.

I am not interested in scoring partisan points here. This is concerns the national security of the United States of America. No partisan points were scored in the classified presentation I attended the other day with Congressman Dicks and Congressman Cox. It was presented in a way that I felt was truly bipartisan. Members of both parties were there. It is a lot bigger than that. The national security of the United States is a lot more important than any of the partisan attacks. We all want answers. We deserve answers, and we deserve to put these witnesses under oath, under threat of perjury, and to speak before the Senate—together, not as five or six different committees of jurisdiction.

The Cox committee did heroic work in the House—much of it despite obstacles put in their path by the administration. They had to dig and claw to get the information, and the report that will be released tomorrow has been blocked for several months by the administration.

It is time for the Senate now to do its part, to focus its collective concern about these matters into a coherent and effective committee. I believe a select committee with a specific intent, with the opportunity to call witnesses, to put people under oath, and to have investigators look into this is the correct approach. Otherwise, it is going to be defused all over the Government and we are going to have all kinds of stories popping up from this committee and that committee, this subcommittee and that subcommittee, and this Senator and that Senator, and it will all be disconnected.

So I urge colleagues to support this legislation. I urge our leaders to support it as well. I think it is a good idea. It has worked in the past when we have had serious issues like this. And our effort here is to gain the truth, to get the facts. I believe this select committee will get the job done.

I want to review briefly what has happened, and why I think it is so important to have a select committee.

About 5 months ago, a special congressional committee investigating security problems with China questioned whether the Department of Energy had adequate safeguards to protect its nuclear secrets. On February 1, 1999, President Clinton responded, saying safeguards were ''adequate'' and getting better.

That was the statement of the President on February 1. With all due respect, and being as nice about it as I can, that was not true then. It is not true now.

One week later, on February 8, Mr. Lee failed a polygraph test. More than a month later, the FBI finally searched his computer. This is not something one can take lightly. When the President says that safeguards were ''adequate'' and getting better, that simply was not true.

Between the time the Justice Department refused the FBI's request for a court order to search Lee's computer and Lee's firing, there were more than 300 break-ins involving the computer network on which Lee had allegedly transferred nuclear secrets.

When Ho Lee was hired by Los Alamos National Laboratories in 1978, he first came under suspicion in 1982 when he made a telephone call to a scientist from Lawrence Livermore Lab who had been fired as a result of an investigation into evidence that a spy had passed neutron bomb secrets to China.

In 1989, when Lee's 5-year security renewal was up for review, Energy Department officials learned of the FBI's inquiry into Mr. Lee. But a file put together on Lee that was sent to DOE headquarters for security review was ''lost.'' And it was not until 1992 that the Department hired an outside contractor to reconstruct the ''lost'' file.

In 1994, a Los Alamos employee reported to security officials that Lee was ''embraced'' by a Chinese intelligence officer during a delegation

visit, and that Lee had discussed with the Chinese the nuclear weapons code similar to the ones he is now suspected of stealing.

In 1995, the Energy Department and the CIA began to learn the record of China's alleged espionage.

In early 1995, scientists at the Los Alamos Nuclear Lab had told Mr. Notra Trulock, then intelligence director at the Energy Department, of their fears that China had achieved a remarkable breakthrough in its nuclear tests. About that same time those fears were raised, U.S. intelligence files showed that a Chinese agent had handed over a secret document to American officials containing evidence that China had stolen design data on American nuclear warheads and missiles.

In 1996, the CIA concluded American secrets had been stolen. Lee emerged in early 1996 as the FBI's ''prime suspect'' at the Laboratories.

In 1996, Mr. Trulock tried to raise warnings about espionage at the Laboratories but was thwarted by his superiors at the Energy Department. Trulock said he finally talked to administration officials as early as April of 1996. He said he met with Sandy Berger. He said Mr. Berger had said subsequently that he briefed Mr. Clinton and took steps to address the problem.

We are in 1996 now—3 years ago. President Clinton denied that. But I will get to that in a minute.

Like all employees, Lee had signed a waiver permitting his e-mail and personal computer to be reviewed without his knowledge. Despite the waiver, the Justice Department, in 1996, decided that a court warrant would be needed before his computer could be searched, and denied the request.

Coincidentally—or not—in 1996, President Clinton relaxed all controls on sales of advanced computers to countries like China. The next year, his administration resisted congressional efforts to retighten those controls. The Cox committee reportedly concluded that some of the computers sold to China went to organizations involved in military activities, and they might have been used for military purposes—like upgrading nuclear weapons or developing more accurate missiles.

When something goes to China, it does not just go to private industry. It goes to the military too. Let's make sure we understand that.

The relaxation of export controls on technology is something I have been hammering away at in my subcommittee—the Strategic Forces Subcommittee—in the Armed Services Committee for seven years. I have watched these controls relax in this administration. I have watched the State Department and the Defense Department and the Justice Department lose the fight time after time after time to the Commerce Department.

In 1996, President Bill Clinton shifted licensing responsibility for some commercial satellite sales from the security-oriented State Department to the business-friendly Commerce Department.

I do not know what most Americans think about all of this, but I am going to say what I think about it. I think this is the worst breach of national security in the history of the United States of America. It is not just about Los Alamos, as we are going to find out tomorrow when this report is declassified when we can talk about it in more detail. Unfortunately, I cannot talk about some of it today. But I urge everyone to get a copy of it and you will see what I am talking about. The Rosenbergs in 1953 were executed, in my view, for less than what has happened here.

I have seen, time after time, witness after witness from this administration come before the Armed Services Committee—either taking the fifth amendment, refusing to come, or fleeing the country, or lying under oath, or being unable to remember. That is one thing during some financial inquiry about who gave how much money to some candidate. But I am going to tell you one thing. I am not going to stand for people coming before the Senate—when the security of the United States of America is at stake, when nuclear weapons have been transmitted to a foreign nation who is an enemy of the United States—I am not going to stand for people coming before this Senate and not telling the truth.

I will say it on the record: somebody is going to be held accountable for what has happened. Somebody is going to be held accountable. Every nuclear weapon in the United States arsenal has been compromised—every one of them, every warhead. I am not going to stand by and take no for an answer. I am not going to stand for this being obfuscated all over the Senate and all over the country with defused, mixed messages. We will get to the bottom of this. Nobody in this Senate should have any objection to that. Whoever did this, whoever is responsible for this, wherever it leads, needs to be held accountable, period.

In 1996, the American intelligence community concluded that China had stolen the secret design information about the neutron bomb. In April 1997, the FBI recommended measures to tighten security at the Labs.

No action was taken; no action.

In July 1997, Mr. Trulock, concerned about lack of progress, went back to the White House to ask for assistance. He gave National Security Adviser Sandy Berger a fuller briefing. Berger briefed the President of the United States as early as July 1997. Twice in 1997 the Justice Department rejected a request by FBI counterintelligence officials to seek a search warrant authorizing more aggressive investigative techniques, including a wiretap and clandestine searches of homes, offices, and computers. The request for a wiretap was turned down by a political appointee, Frances Townsend. A request for a wiretap was turned down.

The numbers of wiretaps authorized each year is classified, but we know there are hundreds in any given year. We also know that seldom are more than two or three in a given year denied. Put yourself in Frances Townsend's place at the Justice Department for a moment. Somebody comes in from the FBI and says, we have a problem. Somebody stole all the nuclear weapon secrets from the United States of America and sent them to China. We have a suspect. We need to wiretap him. And your answer is, no.

Now, I am not going to accept some feeble explanation about why that happened. Somebody is going to answer that question in my presence in this Senate before I leave here; I state that right now.

In August of 1997, FBI Director Louis Freeh recommended Mr. Lee's access to classified information be cut off immediately. What happens? Lee is still granted access to top secret warhead data despite the recommendation. What is going on? This kind of thing does not happen unless somebody makes it happen and wants it to happen.

When the FBI Director says no, the answer is no. But somebody decided that Mr. Freeh was not going to have the last word here. They decided that Mr. Lee was going to continue to have access to top secret warhead data.

During the 1998 congressional investigation into satellite export controls, Trulock has said, acting Energy Secretary Elizabeth Moler ordered him—I emphasize the word ''ordered,'' because I heard him say it in my presence—ordered him not to disclose the Chinese espionage in testimony before the U.S. Congress. A political appointee in the Energy Department ordered Mr. Trulock, a subordinate, not to tell the Congress.

Now she denies it. Clearly, we need these two witnesses to come forth in public session before this select committee. Let the public decide who is lying and who isn't.

Mr. Lee retained access to classified information after he came under suspicion of spying, from October 1997 to October 1998.

On April 28, 1999, the Clinton administration finally admitted that secret nuclear weapons data had been compromised. They finally admitted it when Bill Richardson, the new Secretary of Energy, to his everlasting credit pushed this issue and refused to stand for it anymore.

Wen Ho Lee was fired on March 8. His computer was not searched until the following week. They found he had transferred legacy codes covering many U.S. nuclear weapons from the classified to an unclassified computer system where they could be vulnerable to outsiders. In a computer search, more than 1,000 top secret weapons files had been deleted after being improperly transferred from a highly secure computer system.

Those are the facts as I can outline them without going into classified materials. I point out in the framework of the last 4 or 5 months, this information has been withheld from the public. Certain Senators and Congressmen, if they took it upon themselves, could get a briefing on the Cox report, but it was not allowed to be released.

What happened? What did the President know and when did he know it? That sounds familiar.

March 19, 1999, at a press conference, the President assured the public, ''There has been no espionage at the Labs since I've been President.'' Let me repeat that: ''There has been no espionage at the Labs since I've been President.''

And, ''No one reported to me that they suspect that such a thing has occurred.''

The President, in March of this year, March 19, says, ''There has been no espionage at the Labs since I've been President,'' and, ''No one reported to me that they suspect that such a thing has occurred.''

Mr. Berger told the Cox Committee he didn't speak with the President about Chinese spying for at least a year, but he did say he did it in early 1998. Berger's aides now say he remembers informing Clinton in July of 1997.

Mr. President, this is serious business. When atomic secrets in 1953 were passed to the Russians, a man and a woman—a husband and a wife—were executed. We have got to get to the bottom of this. Any Senator worth his or her salt, regardless of political party, ought to be ready to go on this with no nonsense.

We are not going to accept ridiculous ''I don't remember'' answers anymore. I do not want to hear any of this. And I do not want to be bound by some committee rule where I have 5 minutes to ask a question, and the witness answers for 4½ minutes, and I cannot ask any more. I want the time to ask my questions. I want the time for every Senator to ask these questions on behalf of the American people.

I have never in my life seen anything like the witnesses they have paraded before the committees of this Congress that I have been a party to—Government Affairs Committee investigations, the Armed Services Committee—time and time and time again, saying ''I don't remember, I can't recall.''

That is not good enough. That does not cut it. And it does not cut it on the part of the President of the United States, either. He should have been up here testifying during his impeachment trial. By golly, if we have to have him come up here and testify on this, then bring him up here. This is the national security of the United States we are talking about. This is classified, nuclear, codeword-level information that has been passed, and the President needs to tell us what he knows, if he knows anything.

According to the New York Times, what counterintelligence experts told senior Clinton administration officials in November of 1998 is that China poses an acute intelligence threat to the weapons labs—an acute intelligence threat to the weapons labs. We now know the President had been briefed in November of 1998 about FBI and CIA suspicions, and in January had even received the secret Cox report detailing those security lapses during the Clinton watch.

What is going on here? All right, so he does not tell us the truth about Monica Lewinsky. But this is national security. According to Mr. Berger, his own National Security Adviser, President Clinton was told about the problems at the weapons labs in July of 1997 or February of 1998.

On May 9, 1999, Tim Russert, on ''Meet The Press,'' extracted from Energy Secretary Bill Richardson the acknowledgment that President Clinton was ''fully, fully briefed,'' an admission for which, news reports say, Richardson was savaged by Clinton aides.

Here is the explanation. Clinton put in ''at the labs'' and ''against the labs'' because we technically don't know if the stolen info came from the labs or somewhere else. Richardson also said, ''there have been damaging security leaks. The Chinese have obtained damaging information during past administrations and the current administration.''

Perhaps this spying started in previous administrations, but this administration knew it was going on and did not respond to it. That just does not cut it. This is not about ''what is is.'' This is about the security of the United States of America.

On May 23, 1999, the deputy intelligence director at the Department of Energy suggested the White House was informed about China's theft of United States nuclear secrets much sooner than it has acknowledged.

The inaction from this administration did not come in a vacuum. It came in the thick of a 1996 reelection effort that we now know included campaign contributions from those with ties to the Chinese Government, ties to the military, and ties to the intelligence organization. Mr. Berger first briefed in April of 1996, and not until 2 years later does the White House move to tighten security after receiving more detailed evidence in 1997. NSC sought a narrowly focused CIA report to cast doubt on Energy Department claims.

At the same time the FBI and CIA were investigating the source of the Los Alamos leak, Vice President AL GORE was passing the hat among wealthy Buddhist nuns, the President was serving coffee at the White House to PLA arms dealer Wang Jun, and the administration responded favorably to a request from the man who would be the Democratic Party's largest single donor in 1996, Loral chairman Bernard Schwartz, to transfer authority over licensing of satellite technology from the State Department to the Commerce Department. Two years later, Loral would be granted a Presidential waiver to export its technology to China, even though it was under criminal investigation by the Justice Department for previous technology transfers.

Wake up, America. Wake up. What is going on here? Who knows what? Officials from those two companies, I have news for you. You are coming in here, and you are going to answer some questions as well.

In April of 1996, Energy Department officials informed Mr. Berger that Trulock had uncovered evidence which showed that China had learned how to miniaturize nuclear bombs and it appeared the Chinese had gained that knowledge through the efforts of a spy at the Los Alamos Labs. Berger was told the spy might still be there.

What action did the White House take? Absolutely nothing. But the warning came at an awkward time, the verge of the 1997 Strategic Partnership Summit with Beijing. The administration was also facing the congressional investigations into charges that the P.R.C. had illegally funneled money into their 1996 Clinton-Gore reelection campaign. I do not know where these dots connect or if they connect, but there were a lot of dots. Mr. Berger assigned an NSC staffer to look into things and asked the CIA to investigate. The CIA's report comes back that the Trulock analysis was an unsupported worst case scenario. That is not what he told us in private.

Finally, in February of 1998, President Clinton formally ordered the reforms into effect. But, curiously, Energy Secretary Federico Peña never followed the order and soon after left the Cabinet.

Reforms were not instituted until Bill Richardson did so in October of 1998, 30 months after Trulock's first warning, 9 months after the President's directive. In the meantime, Assistant Secretary Moler orders Trulock not to tell Congress because it could be used against President Clinton's China policy.

Do not tell Congress? If this Senate tolerates that kind of action, we deserve all the criticism we get and 10 times more. We have oversight responsibility. This area, the labs and the security of those labs and those weapons, is directly under this Senator's supervision and oversight responsibility as the chairman of the Strategic Forces Subcommittee. I am going to tell you something; I do not accept that answer. I am not going to accept that answer. Someone is going to talk, and whoever is accountable, in my view, if they did these things, they are going to go to jail, because that is where they belong. We are going to find out where this path leads, if it is the last thing I do.

Political contributions poured in and United States technology flowed out to China day after day, week after week, month after month, year after year—flowed out to China, made possible by

the easing of export controls to this strategic partner of the President's.

We are going to hear that this is China bashing. This is not China bashing. This is the national security of the United States. I hope when the American people read the Cox report, they will understand that the Chinese gained vital information on every nuclear warhead in our arsenal. They now have the missile to fire it, the warhead to put on it, and the targeting information to direct it at any city in the United States of America—all thanks to the relaxation of export controls, and to the fact we left a spy in our labs.

When are we going to wake up? All through March and April of 1999, the White House fought over the release and declassification of this report. No wonder they do not want it released. The Cox report believes China is still spying. I believe they are too. This has to be investigated.

In conclusion, we need a bipartisan select committee to find out where this trail leads, wherever it leads.

SENATE CONCURRENT RESOLUTION 33—EXPRESSING THE SENSE OF CONGRESS REGARDING THE NEED FOR VIGOROUS PROSECUTION OF WAR CRIMES, GENOCIDE, AND CRIMES AGAINST HUMANITY IN THE FORMER REPUBLIC OF YUGOSLAVIA

Ms. LANDRIEU (for herself and Mr. SPECTER) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 33

Expressing the sense of Congress regarding the need for vigorous prosecution of war crimes, genocide, and crimes against humanity in the former Republic of Yugoslavia.

Whereas the United Nations Security Council created the International Criminal Tribunal for the former Yugoslavia (in this concurrent resolution referred to as the "ICTY") by resolution on May 25, 1993;

Whereas, although the ICTY has indicted 84 people since its creation, these indictments have only resulted in the trial and conviction of 8 criminals;

Whereas the ICTY has jurisdiction to investigate: grave breaches of the 1949 Geneva Conventions (Article 2), violations of the laws or customs of war (Article 3), genocide (Article 4), and crimes against humanity (Article 5);

Whereas the Chief Prosecutor of the ICTY, Justice Louise Arbour, stated on July 7, 1998, to the Contact Group for the former Yugoslavia that "[t]he Prosecutor believes that the nature and scale of the fighting indicate that an 'armed conflict', within the meaning of international law, exists in Kosovo. As a consequence, she intends to bring charges for crimes against humanity or war crimes, if evidence of such crimes is established";

Whereas reports from Kosovar Alabanian refugees provide detailed accounts of systematic efforts to displace the entire Muslim population of Kosovo;

Whereas in furtherance of this plan, Serbian troops, police, and paramilitary forces have engaged in detention and summary execution of men of all ages, wanton destruction of civilian housing, forcible expulsions, mass executions in at least 60 villages and towns, as well as widespread organized rape of women and young girls;

Whereas these reports of atrocities provide prima facie evidence of war crimes, crimes against humanity, as well as genocide;

Whereas any criminal investigation is best served by the depositions and interviews of witnesses as soon after the commission of the crime as possible;

Whereas the indictment, arrest, and trial of war criminals would provide a significant deterrent to further atrocities;

Whereas the ICTY has issued 14 international warrants for war crimes suspects that have yet to be served, despite knowledge of the suspects' whereabouts;

Whereas vigorous prosecution of war crimes after the conflict in Bosnia may have prevented the ongoing atrocities in Kosovo; and

Whereas investigative reporters have identified specific documentary evidence implicating the Serbian leadership in the commission of war crimes: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) the United States, in coordination with other United Nations contributors, should provide sufficient resources for an expeditious and thorough investigation of allegations of the atrocities and war crimes committed in Kosovo;

(2) the United States, through its intelligence services, should provide all possible cooperation in the gathering of evidence of sufficient specificity and credibility to secure the indictment of those responsible for the commission of war crimes, crimes against humanity, and genocide in the former Yugoslavia;

(3) where evidence warrants, indictments for war crimes, crimes against humanity, and genocide should be issued against suspects regardless of their position within the Serbian leadership;

(4) the United States and all nations have an obligation to honor arrest warrants issued by the ICTY, and the United States should use all appropriate means to apprehend war criminals already under indictment; and

(5) NATO should not accept any diplomatic resolution to the conflict in Kosovo that would bar the indictment, apprehension, or prosecution of war criminals for crimes committed during operations in Kosovo.

Ms. LANDRIEU. Mr. President, this resolution, from the Senator from Pennsylvania and me, attempts to address the serious issue of war crimes. It calls for the Senate to make its voice clear on the issue of war crimes and the prosecution of those guilty of such crimes.

AMENDMENTS SUBMITTED

DEPARTMENT OF DEFENSE AUTHORIZATION ACT

KERREY AMENDMENT NO. 376

(Ordered to lie on the table.)

Mr. KERREY submitted an amendment intended to be proposed by him to the bill (S. 1059) to authorize appropriations for fiscal year 2000 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 357, strike line 13 and all that follows through page 358, line 4.

WARNER AMENDMENT NO. 378

Mr. WARNER proposed an amendment to amendment No. 377 proposed by Mr. ROBERTS to the bill, S. 1059, supra; as follows:

At the end of the amendment, add the following:

(c) REPORT.—Together with the certification under subsection (a)(1), the President should submit to the Senate a report containing an analysis of the potential threats facing NATO in the first decade of the next millennium, with particular reference to those threats facing a member nation or several member nations where the commitment of NATO forces will be "out of area", or beyond the borders of NATO member nations.

ROBERTS (AND OTHERS) AMENDMENT NO. 377

Mr. ROBERTS (for himself, Mr. WARNER, and Ms. SNOWE) proposed an amendment to the bill, S. 1059, supra; as follows:

In title X, at the end of subtitle D, add the following:

SEC. 1061. SENSE OF SENATE REGARDING LEGAL EFFECT OF THE NEW STRATEGIC CONCEPT OF NATO.

(a) SENSE OF SENATE.—It is the sense of the Senate that—

(1) not later than 30 days after the date of enactment of this Act, the President should determine and certify to the Senate whether or not the new Strategic Concept of NATO imposes any new commitment or obligation on the United States; and

(2) if the President certifies under paragraph (1) that the new Strategic Concept of NATO imposes any new commitment or obligation on the United States, the President should submit the new Strategic Concept of NATO to the Senate as a treaty for the Senate's advice and consent to ratification under Article II, Section 2, Clause 2 of the Constitution of the United States.

(b) DEFINITION.—For the purposes of this section, the term "new Strategic Concept of NATO" means the document approved by the Heads of State and Government participating in the meeting of the North Atlantic Council in Washington, D.C., on April 23 and 24, 1999.

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

GRAMS AMENDMENT NO. 379

(Ordered to lie on the table.)

Mr. GRAMS submitted an amendment intended to be proposed by him to the bill S. 1059, supra; as follows:

On page 453, between lines 10 and 11, insert the following:

SEC. 2832. LAND CONVEYANCES, TWIN CITIES ARMY AMMUNITION PLANT, MINNESOTA.

(a) CONVEYANCE TO CITY AUTHORIZED.—The Secretary of the Army may convey to the City of Arden Hills, Minnesota (in this section referred to as the "City"), all right, title, and interest of the United States in and to a parcel of real property, including

improvements thereon, consisting of approximately 4 acres at the Twin Cities Army Ammunition Plant, for the purpose of permitting the City to construct a city hall complex on the parcel.

(b) CONVEYANCE TO COUNTY AUTHORIZED.—The Secretary of the Army may convey to Ramsey County, Minnesota (in this section referred to as the ''County''), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 35 acres at the Twin Cities Army Ammunition Plant, for the purpose of permitting the County to construct a maintenance facility on the parcel.

(c) CONSIDERATION.—As a consideration for the conveyances under this section, the City shall make the city hall complex available for use by the Minnesota National Guard for public meetings, and the County shall make the maintenance facility available for use by the Minnesota National Guard, as detailed in agreements entered into between the City, County, and the Commanding General of the Minnesota National Guard. Use of the city hall complex and maintenance facility by the Minnesota National Guard shall be without cost to the Minnesota National Guard.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under this section shall be determined by surveys satisfactory to the Secretary. The cost of the survey shall be borne by the recipient of the real property.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyances under this section as the Secretary considers appropriate to protect the interests of the United States.

WELLSTONE AMENDMENTS NOS. 380–382

Mr. WELLSTONE proposed three amendments to the bill, S. 1059, supra; as follows:

AMENDMENT NO. 380

On page 387, below line 24, add the following:

SEC. 1061. EXPANSION OF LIST OF DISEASES PRESUMED TO BE SERVICE-CONNECTED FOR RADIATION-EXPOSED VETERANS.

Section 1112(c)(2) of title 38, United States Code, is amended by adding at the end the following:

''(P) Lung cancer.

''(Q) Colon cancer.

''(R) Tumors of the brain and central nervous system.''.

AMENDMENT NO. 381

On page 83, between lines 7 and 8, insert the following:

SEC. 329. PROVISION OF INFORMATION AND TECHNICAL GUIDANCE TO CERTAIN FOREIGN NATIONS REGARDING ENVIRONMENTAL CONTAMINATION AT UNITED STATES MILITARY INSTALLATIONS CLOSED OR BEING CLOSED IN SUCH NATIONS.

(a) REQUIREMENT TO PROVIDE INFORMATION AND GUIDANCE.—The Secretary of Defense shall provide to each foreign nation that is a strategic partner of the United States the following:

(1) Such information meeting the standards and practices of the United States environmental industry as is necessary to assist the foreign nation in determining the nature and extent of environmental contamination at—

(A) each United States military installation located in the foreign nation that is being closed; and

(B) each site in the foreign nation of a United States military installation that has been closed.

(2) Such technical guidance and other cooperation as is necessary to permit the foreign nation to utilize the information provided under paragraph (1) for purposes of environmental baseline studies.

(b) LIMITATION.—The requirement to provide information and technical guidance under subsection (a) may not be construed to establish on the part of the United States any liability or obligation for the costs of environmental restoration or remediation at any installation or site referred to in paragraph (1) of that subsection.

(c) DEFINITION.—In this section, the term ''foreign nation that is a strategic partner of the United States'' means any nation which cooperates with the United States on military matters, whether by treaty alliance or informal arrangement.

AMENDMENT NO. 382

At the appropriate place, insert the following:

SEC. ___. EVALUATION OF THE OUTCOME OF WELFARE REFORM.

Section 411(b) of the Social Security Act (42 U.S.C. 611(b)) is amended—

(1) in paragraph (3), by striking ''and'' at the end;

(2) in paragraph (4), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(5) for each State program funded under this part, data regarding the rate of employment, job retention, earnings characteristics, health insurance status, and child care access and cost for former recipients of assistance under the State program during, with respect to each such recipient, the first 24 months occurring after the date that the recipient ceases to receive such assistance.''.

SPECTER AMENDMENT NO. 383

Mr. SPECTER proposed an amendment to the bill, S. 1059, supra; as follows:

At the appropriate place add the following new section:

SEC. . Directing the President, pursuant to the United States Constitution and the War Powers Resolution, to seek approval from Congress prior to the introduction of ground troops from the United States Armed Forces in connection with the present operations against the Federal Republic of Yugoslavia or funding for that operation will not be authorized.

None of the funds authorized or otherwise available to the Department of Defense may be obligated or expended for the deployment of ground troops from the United States Armed Forces in Kosovo, except for peacekeeping personnel, unless authorized by a declaration of war or a joint resolution authorizing the use of military force.

LANDRIEU (AND OTHERS) AMENDMENT NO. 384

Mr. SPECTER (for Ms. LANDRIEU (for herself, Mr. SPECTER, Mr. LEVIN, Mr. DORGAN, and Mrs. FEINSTEIN)) proposed an amendment to the bill, S. 1059, supra; as follows:

At the end of title 10 add the following:

The Senate finds that:

The United Nations Security Council created the International Criminal Tribunal for the former Yugoslavia (in this concurrent resolution referred to as the ''ICTY'') by resolution on May 25, 1993;

Although the ICTY has indicted 84 people since its creation, these indictments have only resulted in the trial and conviction of 8 criminals;

The ICTY has jurisdiction to investigate: grave breaches of the 1949 Geneva Conventions (Article 2), violations of the laws or customs of war (Article 3), genocide (Article 4), and crimes against humanity (Article 5);

The Chief Prosecutor of the ICTY, Justice Louise Arbour, stated on July 7, 1998, to the Contact Group for the former Yugoslavia that ''[t]he Prosecutor believes that the nature and scale of the fighting indicate that an 'armed conflict', within the meaning of international law, exists in Kosovo. As a consequence, she intends to bring charges for crimes against humanity or war crimes, if evidence of such crimes is established'';

Reports from Kosovar Albanian refugees provide detailed accounts of systematic efforts to displace the entire Muslim population of Kosovo;

In furtherance of this plan, Serbian troops, police, and paramilitary forces have engaged in detention and summary execution of men of all ages, wanton destruction of civilian housing, forcible expulsions, mass executions in at least 60 villages and towns, as well as widespread organized rape of women and young girls;

These reports of atrocities provide prima facie evidence of war crimes, crimes against humanity, as well as genocide;

Any criminal investigation is best served by the depositions and interviews of witnesses as soon after the commission of the crime as possible;

The indictment, arrest, and trial of war criminals would provide a significant deterrent to further atrocities;

The ICTY has issued 14 international warrants for war crimes suspects that have yet to be served, despite knowledge of the suspects' whereabouts;

Vigorous prosecution of war crimes after the conflict in Bosnia may have prevented the ongoing atrocities in Kosovo; and

Investigative reporters have identified specific documentary evidence implicating the Serbian leadership in the commission of war crimes.

SEC. 2. It is the sense of Congress that—

(1) the United States, in coordination with other United Nations contributors, should provide sufficient resources for an expeditious and thorough investigation of allegations of the atrocities and war crimes committed in Kosovo;

(2) the United States, through its intelligence services, should provide all possible cooperation in the gathering of evidence of sufficient specificity and credibility to secure the indictment of those responsible for the commission of war crimes, crimes against humanity, and genocide in the former Yugoslavia;

(3) where evidence warrants, indictments for war crimes, crimes against humanity, and genocide should be issued against suspects regardless of their position within the Serbian leadership;

(4) the United States and all nations have an obligation to honor arrest warrants issued by the ICTY, and the United States should use all appropriate means to apprehend war criminals already under indictment; and

(5) NATO should not accept any diplomatic resolution to the conflict in Kosovo that would bar the indictment, apprehension, or prosecution of war criminals for crimes conmitted during operations in Kosovo.

THOMAS (AND ENZI) AMENDMENT NO. 385

(Ordered to lie on the table.)

Mr. THOMAS (for himself and Mr. ENZI) submitted an amendment intended to be proposed by them to the bill, S. 1059, supra; as follows:

At the appropriate place in the bill, insert the following new section and renumber the remaining sections accordingly:

"SEC. . PROHIBITION ON THE RETURN OF VETERANS MEMORIAL OBJECTS TO FOREIGN NATIONS WITHOUT SPECIFIC AUTHORIZATION IN LAW.

(A) PROHIBITION.—Notwithstanding section 2572 of title 10, United States Code, or any other provision of law, the President may not transfer a veterans memorial object to a foreign country or entity controlled by a foreign government, or otherwise transfer or convey such object to any person or entity for purposes of the ultimate transfer or conveyance of such object to a foreign country or entity controlled by a foreign government, unless specifically authorized by law.

(b) DEFINITIONS.—In this section:

(1) ENTITY CONTROLLED BY A FOREIGN GOVERNMENT.—The term "entity controlled by a foreign government" has the meaning given that term in section 2536(c)(1) of title 10, United States Code.

(2) VETERANS MEMORIAL OBJECT.—The term "veterans memorial object" means any object, including a physical structure or portion thereof, that—

(A) is located at a cemetery of the National Cemetery System, was memorial, or military installation in the United States;

(B) is dedicated to, or otherwise memorializes, the death in combat or combat-related duties of members of the United States Armed Forces; and

(C) was brought to the United States from abroad as a memorial of combat abroad."

SARBANES AMENDMENTS NOS. 386–387

(Ordered to lie on the table.)

Mr. SARBANES submitted two amendments intended to be proposed by him to the bill, S. 1059, supra; as follows:

AMENDMENT NO. 386

At the end of subtitle E of title XXVIII, add the following:

SEC.—. ONE-YEAR DELAY IN DEMOLITION OF RADIO TRANSMITTING FACILITY TOWERS AT NAVAL STATION, ANNAPOLIS, MARYLAND, TO FACILITATE TRANSFER OF TOWERS.

(a) ONE-YEAR DELAY.—Notwithstanding any other provision of law, the Secretary of the Navy may not obligate or expend any funds for the demolition of the naval radio transmitting facility (NRTF) towers described in subsection (b) during the one-year period beginning on the date of the enactment of this Act.

(b) COVERED TOWERS.—The naval radio transmitting facility towers described in this subsection are the three southeastern most naval radio transmitting facility towers located at Naval Station, Annapolis, Maryland, that are scheduled for demolition as of the date of the enactment of this Act.

(c) TRANSFER OF TOWERS.—the Secretary shall transfer to the State of Maryland, or to Anne Arundel County, Maryland, all right, title, and interest of the United States in and out the towers described in subsection (b) if the State of Maryland or Anne Arundel County Maryland, as the case may be, agrees to accept such right, title, and interest from the United States during the one-year period referred to in subsection (a).

AMENDMENT NO. 387

On page 459, between lines 17 and 18, insert the following:

SEC. 2844. MODIFICATION OF LAND CONVEYANCE AUTHORITY, FORMER NAVAL TRAINING CENTER, BAINBRIDGE, CECIL COUNTY, MARYLAND.

Section 1 of Public Law 99–596 (100 Stat. 3349) is amended—

(1) in subsection (a), by striking "subsections (b) through (f)" and inserting "subsections (b) through (e)";

(2) by striking subsection (b) and inserting the following new subsection (b):

"(b) CONSIDERATION.—(1) In the event of the transfer of the property under subsection (a) to the State of Maryland, the transfer shall be with consideration or without consideration from the State of Maryland, at the election of the Secretary.

"(2) If the Secretary elects to receive consideration from the State of Maryland under paragraph (1), the Secretary may reduce the amount of consideration to be received from the State of Maryland under that paragraph by an amount equal to the cost, estimated as of the time of the transfer of the property under this section, of the restoration of the historic buildings on the property. The total amount of the reduction of consideration under this paragraph may not exceed $500,000.";

(3) by striking subsection (d); and

(4) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

ROTH (AND OTHERS) AMENDMENT NO. 388

Mr. ROTH (for himself, Mr. BIDEN, Mr. THURMOND, and Mr. KENNEDY) proposed an amendment to the bill, S. 1059, supra; as follows:

In title V, at the end of subtitle F, add the following:

SEC. 582, POSTHUMOUS ADVANCEMENT OF REAR ADMIRAL (RETIRED) HUSBAND E. KIMMEL AND MAJOR GENERAL (RETIRED) WALTER C. SHORT ON RETIRED LISTS.

(a) FINDINGS.—Congress makes the following findings:

(1) The late Rear Admiral (retired) Husband E. Kimmel, formerly serving in the grade of admiral as the Commander in Chief of the United States Fleet and the Commander in Chief, United States Pacific Fleet, had an excellent and unassailable record throughout his career in the United States Navy prior to the December 7, 1941 attack on Pearl Harbor.

(2) The late Major General (retired) Walter C. Short, formerly serving in the grade of lieutenant general as the Commander of the United States Army Hawaiian Department, had an excellent and unassailable record throughout his career in the United States Army prior to the December 7, 1941 attack on Pearl Harbor.

(3) Numerous investigations following the attack on Pearl Harbor have documented that then Admiral Kimmel and then Lieutenant General Short were not provided necessary and critical intelligence that was available, that foretold of war with Japan, that warned of imminent attack, and that would have alerted them to prepare for the attack, including such essential communiques as the Japanese Pearl Harbor Bomb Plot message of September 24, 1941, and the message sent from the Imperial Japanese Foreign Ministry to the Japanese Ambassador in the United States from December 6–7, 1941, known as the Fourteen-Part Message.

(4) On December 16, 1941, Admiral Kimmel and Lieutenant General Short were relieved of their commands and returned to their permanent ranks of rear admiral and major general.

(5) Admiral William Harrison Standley, who served as a member of the investigating commission known as the Roberts Commission that accused Admiral Kimmel and Lieutenant General Short of "dereliction of duty" only six weeks after the attack on Pearl Harbor, later disavowed the report maintaining that "these two officers were martyred" and "if they had been brought to trial, both would have been cleared of the charge".

(6) On October 19, 1944, a Naval Court of Inquiry—

(A) exonerated Admiral Kimmel on the grounds that his military decisions and the disposition of his forces at the time of the December 7, 1941 attack on Pearl Harbor were proper "by virtue of the information that Admiral Kimmel had at hand which indicated neither the probability nor the imminence of an air attack on Pearl Harbor";

(B) criticized the higher command for not sharing with Admiral Kimmel "during the very critical period of 26 November to 7 December 1941, important information . . . regarding the Japanese situation"; and

(C) concluded that the Japanese attack and its outcome was attributable to no serious fault on the part of anyone in the naval service.

(7) On June 15, 1944, an investigation conducted by Admiral T.C. Hart at the direction of the Secretary of the Navy produced evidence, subsequently confirmed, that essential intelligence concerning Japanese intentions and war plans was available in Washington but was not shared with Admiral Kimmel.

(8) On October 20, 1944, the Army Pearl Harbor Board of Investigation determined that—

(A) Lieutenant General Short had not been kept "fully advised of the growing tenseness of the Japanese situation which indicated an increasing necessity for better preparation for war";

(B) detailed information and intelligence about Japanese intentions and war plans were available in "abundance", but were not shared with Lieutenant General Short's Hawaii command; and

(C) Lieutenant General Short was not provided "on the evening of December 6th and the early morning of December 7th, the critical information indicating an almost immediate break with Japan, though there was ample time to have accomplished this".

(9) The reports by both the Naval Court of Inquiry and the Army Pearl Harbor Board of Investigation were kept secret, and Rear Admiral (retired) Kimmel and Major General (retired) Short were denied their requests to defend themselves through trial by court-martial.

(10) The joint committee of Congress that was established to investigate the conduct of Admiral Kimmel and Lieutenant General Short completed, on May 31, 1946, a 1,075-page report which included the conclusions of the committee that the two officers had not been guilty of dereliction of duty.

(11) The Officer Personnel Act of 1947, in establishing a promotion system for the Navy and the Army, provided a legal basis for the President to honor any officer of the Armed Forces of the United States who served his country as a senior commander during World War II with a placement of that officer, with the advice and consent of the Senate, on the retired list with the highest grade held while on the active duty list.

(12) On April 27, 1954, the then Chief of Naval Personnel, Admiral J.L. Holloway, Jr., recommended that Rear Admiral Kimmel be advanced in rank in accordance with the provisions of the Officer Personnel Act of 1947.

(13) On November 13, 1991, a majority of the members of the Board for the Correction of Military Records of the Department of the Army found that the late Major General (retired) Short "was unjustly held responsible for the Pearl Harbor disaster" and that "it would be equitable and just" to advance him to the rank of lieutenant general on the retired list".

(14) In October 1994, the then Chief of Naval Operations, Admiral Carlisle Trost, withdrew his 1988 recommendation against the advancement of Rear Admiral (retired) Kimmel (By then deceased) and recommended that the case of Rear Admiral Kimmel be reopened.

(15) Although the Dorn Report, a report on the result of a Department of Defense study that was issued on December 15, 1995, did not provide support for an advancement of the late Rear Admiral (retired) Kimmel or the late Major General (retired) Short in grade, it did set forth as a conclusion of the study that ''responsibility for the Pearl Harbor disaster should not fall solely on the shoulders of Admiral Kimmel and Lieutenant General Short, it should be broadly shared''.

(16) The Dorn Report found—

(A) that ''Army and Navy officials in Washington were privy to intercepted Japanese diplomatic communications . . . which provided crucial confirmation of the imminence of war'';

(B) that ''the evidence of the handling of these messages in Washington reveals some ineptitude, some unwarranted assumptions and misestimations, limited coordination, ambiguous language, and lack of clarification and follow-up at higher levels''; and

(C) that ''together, these characteristics resulted in failure . . . to appreciate fully and to convey to the commanders in Hawaii the sense of focus and urgency that these intercepts should have engendered''.

(17) On July 21, 1997, Vice Admiral David C. Richardson (United States Navy, retired) responded to the Dorn Report with his own study which confirmed findings of the Naval Court of Inquiry and Army Pearl Harbor Board of Investigation and established, among other facts, that the war effort in 1941 was undermined by a restrictive intelligence distribution policy, and the degree to which the commanders of the United States forces in Hawaii were not alerted about the impending attack on Hawaii was directly attributable to the withholding of intelligence from then Admiral Kimmel and Lieutenant General Short.

(18) Rear Admiral (retired) Kimmel and Major General (retired) Short are the only two officers eligible for advancement under the Officer Personnel Act of 1947 as senior World War II commanders who were excluded from the list of retired officers presented for advancement on the retired lists to their highest wartime ranks under that Act.

(19) This singular exclusion from advancement of Rear Admiral (retired) Kimmel and Major General (retired) Short from the Navy retired list and the Army retired list, respectively, serves only to perpetuate the myth that the senior commanders in Hawaii were derelict in their duty and responsible for the success of the attack on Pearl Harbor, and is a distinct and unacceptable expression of dishonor toward two of the finest officers who have served in the Armed Forces of the United States.

(20) Major General (retired) Walter Short died on September 23, 1949, and Rear Admiral (retired) Husband Kimmel died on May 14, 1968, without having been accorded the honor of being returned to their wartime ranks as were their fellow veterans of World War II.

(21) The Veterans of Foreign Wars, the Pearl Harbor Survivors Association, the Admiral Nimitz Foundation, the Naval Academy Alumni Association, the Retired Officers Association, the Pearl Harbor Commemorative Committee, and other associations and numerous retired military officers have called for the rehabilitation of the reputations and honor of the late Rear Admiral (retired) Kimmel and the late Major General (retired) Short through their posthumous advancement on the retired lists to their highest wartime grades.

(b) REQUEST FOR ADVANCEMENT ON RETIRED LISTS.—(1) The President is requested—

(A) to advance the late Rear Admiral (retired) Husband E. Kimmel to the grade of admiral on the retired list of the Navy; and

(B) to advance the late Major General (retired) Walter C. Short to the grade of lieutenant general on the retired list of the Army.

(2) Any advancement in grade on a retired list requested under paragraph (1) shall not increase or otherwise modify the compensation or benefits from the United States to which any person is now or may in the future be entitled based upon the military service of the officer advanced.

(c) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the late Rear Admiral (retired) Husband E. Kimmel performed his duties as Commander in Chief, United States Pacific Fleet, competently and professionally, and, therefore, the losses incurred by the United States in the attacks on the naval base at Pearl Harbor, Hawaii, and other targets on the island of Oahu, Hawaii, on December 7, 1941, were not a result of dereliction in the performance of those duties by the then Admiral Kimmel; and

(2) the late Major General (retired) Walter C. Short performed his duties as Commanding General, Hawaiian Department, competently and professionally, and, therefore, the losses incurred by the United States in the attacks on Hickam Army Air Field and Schofield Barracks, Hawaii, and other targets on the island of Oahu, Hawaii, on December 7, 1941, were not a result of dereliction in the performance of those duties by the then Lieutenant General Short.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON INDIAN AFFAIRS

Mr. SMITH of New Hampshire. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will meet during the session of the Senate on Wednesday, May 26, 1999, at 9:30 a.m. to conduct a hearing on American Indian Youth Activities and Initiatives. The hearing will be held in room 485, Russell Senate Building.

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

SUBCOMMITTEE ON CRIMINAL JUSTICE OVERSIGHT

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that the Subcommittee on Criminal Justice Oversight, of the Senate Judiciary Committee, be authorized to meet during the session of the Senate on Monday, May 24, 1999, at 3 p.m. to hold a hearing in room 226, Senate Dirksen Office Building, on: ''Bureau of Prisons Oversight: The Importance of Federal Prison Industries.''

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

ADDITIONAL STATEMENTS

REMEMBERING THE NAVAJO CODE TALKERS ON MEMORIAL DAY

• Mr. BIDEN. Mr. President, as our nation gratefully remembers the deceased men and women of our military, I have a special commemoration for this Memorial Day, 1999. This year, as brave American patriots willingly put themselves in ''harm's way'' to defend the values and national interests of all Americans in places like the Balkans and the Persian Gulf, I rise to remind my colleagues here in the United States Senate and the American people of one distinguished group of patriots who gave so unselfishly at a time when their rights of citizenship were restricted—the Navajo Code Talkers of World War II. I want to let everyone know how honored we Delawareans are to welcome to my state one of these Native American patriots and World War II veterans this Memorial Day weekend.

The Clarence Vinson-John Chason Post #3238 of the Veterans of Foreign Wars, in Camden, Delaware will have the distinct privilege of hosting Mr. Samuel Billison. Mr. Billison was one of the Navajo Code Talkers who helped the United States of America defeat the Axis Powers in the Pacific during World War II. Mr. Billison is traveling from Window Rock, Arizona to be the featured speaker at the May 31st Memorial Day observances being conducted by VFW Post #3238 at the Ceasar Rodney High School auditorium.

My state—the First State, the State that started our nation—has a long and proud history of celebrating the culture and accomplishments of Native Americans. It is only fitting, therefore, that Post Commander Mark Newman and Memorial Day Program Director Thomas E. Weyant sought out Mr. Samuel Billison, once one of the select Navajo Code Talkers.

Each Navajo Code Talker made an invaluable personal contribution to the success of our nation's effort in World War II to preserve freedom and democracy. What is most astonishing about this is that they were willing to take on the responsibilities of democracy at a time when they were not allowed to enjoy the full blessings and rights of democracy here at home.

Their communications contribution to World War II began in 1942 with a small group of 29 Navajos who shared their unique and unwritten language with the United States Marine Corps. Together they developed an unbreakable verbal code. By 1943, nearly 200 Navajo Code Talkers were dispersed to three combat divisions of the U.S. Marine Corps. As part of Marine Corps signal units, they participated through 1944 in the Pacific battles whose names bear witness to the honor and bravery of America's Marines—Bouganville, Tarawa, Cape Gloucester, the Marshall Islands, Saipan, Guam, and Peleiu.

As 1945 unfolded, all six divisions of the Marine Corps in the Pacific theater were using the distinctive skills and loyal services of approximately 400 Navajo Code Talkers. These brave Native Americans joined other courageous Marines to recapture Iwo Jima and Okinawa. In the first two days of the battle for Iwo Jima, Navajo Code

Talkers flawlessly translated over 800 messages. At the end of that month-long blood bath, it was Navajo Code Talkers who spelled out ''Mt. Suribachi'' as the flag was raised. By late 1945, the Navajo Code Talkers were serving with the occupation forces in Japan and China.

The historical accomplishments and story of the Navajo Code Talkers must be preserved and retold for future generations. These Native American communications experts used their native tongue to thwart the enemy; to expedite military operations for critical territory; and to save countless lives in combat. Learning their story and repeating it is more than a matter of historical accuracy and completeness, or even a matter of just recognition and gratitude. As my friend Tom Weyant pointed out—speaking, I believe, for all Delawareans—it is also critical that Americans enter the New Millennium understanding the community ethos and deep patriotism of the Navajos who fought in World War II. The Navajos saw that ''pulling together'' was a matter of national survival. They gave unselfishly to defend ideals that even today, all we Americans still have not fully realized here in the United States, because the Navajos had faith that America would always continue to move toward the realization and fulfillment of those ideals.

Mr. President, we in Delaware salute the Navajo Code Talkers of World War II. They are unsung heroes who played a vital role in our ultimate success in the Pacific by providing a code which the Japanese never could decipher. While many knew that Native Americans faithfully served in the war, including Navajos, it was not until 1968 that the existence of this top-secret code was finally declassified and made public. Our entire country is indebted to Mr. Billison, to all the Navajo Code Talkers, and to the thousands of Native Americans from various tribes who served so loyally and selflessly in both the Pacific and European theaters of World War II. We must never forget the ultimate sacrifice these Native Americans were willing to make at a time when they and their families were not even allowed to vote or participate in the full fruits of American citizenship in several states.

Mr. Samuel Billison, the Navajo legacy of patriotism, the Navajo contribution of their unique skills, the Navajo heritage of heroism, and the Navajo example of love for America must be carried forward by us all. Your story embodies all that we Americans look for in our heroes today and that we revere in the rich tradition of our United States Marine Corps. To you and to all who served, I thank you.●

SECTION 201 PETITION FOR THE LAMB INDUSTRY

● Mr. BURNS. Mr. President, I rise today to bring to everyone's attention the issue of lamb imports. These imports are being sold well below the price of identical domestic products and have created a slow motion, chain reaction collapse of the lamb market that continues through this day.

This nation's lamb industry suffers not only from the unprecedented surge of imports that have flooded the domestic marketplace. It suffers not only from the skyrocketing, record-setting levels that now dominate one-third of all lamb consumed in the United States.

This industry also suffers from severe and consistent price undercutting by importers.

Evidence of the price disparity can be found in the report prepared by the U.S. International Trade Commission. The Commission made dozens of product-to-product comparisons. In 8 out of 10 comparisons, the Commission found imports undercutting domestic products by margins of 20 percent to 40 percent.

Other comparisons have found disparities reaching as high as 70 percent. This gulf is directly related to global economic conditions. In Asia, the widespread economic crash left traditional buyers unable to pay for new shipments of lamb meat from Australia and New Zealand—those products had to go somewhere.

It couldn't go to the European market. The European Union has absolute quotas in place to govern the amount of lamb imports into that market.

Instead, it came here, to the United States market. It came to a market that stands open and unprotected. To a market where the government has done nothing, absolutely nothing, to protect its own domestic industries from devastating surges of imports.

That surge began what amounts to a slow-motion crash of the domestic lamb market in the fall on 1997. Packers and processors with lamb to sell suddenly lost account after account to the cheaper imports. Losing money by the day, they had none to pay to their own suppliers and the lamb feeder level.

And so it went, with domestic producers hoping the surge would slow of its own accord. Hoping the importers would realize the devastation they'd wrought. Hoping they could stay in business long enough to finish upgrading equipment, or solidifying alliances—to become more competitive.

But the onslaught from imports was relentless. From the processors and packers to the feeders, the domestic market crash now reaches all the way to farms and ranches that have stood for generations—an entire industry teeters on the edge of financial ruin.

Last fall, some producers with sheep to sell couldn't find a single buyer. For the second Easter/Passover season in a row, the market's traditional high point and the largest holiday marketing period of the year—live lambs were selling in the 60-cent per pound range. Few producers in the country can remain in business at those prices.

Let me add my voice to those urging the President to fashion strong, effective import relief for the U.S. lamb industry. This relief must do two things, curb this unprecedented surge of imports and level the playing field.●

RECOGNITION OF EDGAR LEE NEWTON

● Mr. LEVIN. Mr. President, I rise today to pay tribute to a remarkable person from my home state of Michigan, Mr. Edgar Lee Newton. On May 23, 1999, Mr. Newton will be honored upon his retirement after 18 years as the president of the Bay City branch of the NAACP.

As president of the Bay City NAACP, Edgar Newton has fought many difficult battles for equality and civil rights. Although his tireless efforts on behalf of the NAACP are worthy of recognition in their own right, Mr. Newton has not confined his community service to the NAACP. He has also served with distinction in leadership roles with organizations like the American Red Cross, the United Way, Habitat for Humanity and the Kiwanis Club.

Edgar Newton's departure from the NAACP will mark a new chapter in his life. I can only hope it is as successful as his civil rights career. Though I am sure he will remain active in the Bay City community, he will enjoy spending more time with his wife Shirley and his two children and grandchild. I am pleased to join his colleagues, friends and family in offering my thanks for all he has done.

Mr. President, Edgar Newton can take pride in the many important achievements of his tenure with the NAACP. He has truly exhibited a dedication to justice and equality for all people. I know my colleagues will join me in saluting his commitment to civil rights and in wishing him well in his retirement.●

MELISSA YORK, WINNER OF JAMES MADISON MEMORIAL FOUNDATION FELLOWSHIP

● Mr. GORTON. Today, I would like to recognize Melissa York, a teacher from Tyee High School in Seatac. She has won Washington State's 1999 James Madison Memorial Foundation Fellowship which will pay for her graduate school program.

James Madison was perhaps the hardest working and most widely respected man of his day. Commonly hailed as the Father of our Constitution, Madison had more to do with its conception than any other man. He was the driving force in organizing the convention and in establishing the tone and ironing out each obstacle that threatened the success of the Constitution.

Because of Madison's tremendous contributions to the creation of the Constitution, Congress decided to establish the Memorial Foundation Fellowship to recognize Americans who

teach American history and the Constitution to our young people.

Each day Melissa teaches eleventh and twelfth graders about the Constitution and how it is used in everyday life and how it is reflected in our society. The future of our country depends on today's students and on their knowledge and comprehension of our Constitution and government.

She not only gives her students greater understanding of our country, but she also inspires her students to achieve more through her example. By continuing her own education, Melissa is showing her students that the educational process should never end.

I applaud Melissa for her hard work and dedication to her profession and for her commitment to her students and to learning.●

SALUTE TO ALEX XUE

● Mr. LEAHY. Mr. President, on Friday May 14th, MATHCOUNTS held its national competition in Washington, D.C.—the culmination of local and State competitions involving 350,000 students. It gives me great pleasure to inform my colleagues that Alex Xue, a resident of Essex Junction, VT finished second in this competition and received a $6,000 college scholarship.

In a day and age where we are bombarded by reports of failing school systems and apathetic young people, I believe it is extremely important to recognize Alex's tremendous accomplishment. His success is a tribute not only to his own intelligence and hard work, but also to his family, his teachers and his school community.

In addition to meeting with Alex and his MATHCOUNTS teammates on the Senate steps prior to the competition, by coincidence, I was on Alex's flight back to Vermont on the Sunday following his competition. I had a chance to talk with Alex and compliment him on his tremendous achievement. He was holding the trophy he had received and when I admired it, although it was clear that he was happy with it, he was especially pleased with the college scholarship. I praised him as any Vermonter would, but I was impressed with his modesty and his pride in his family and school. This is a young man who will do remarkably well in life and we Vermonters should be proud that he is one of us.

I ask that the editorial detailing Alex's achievement, which appeared in the Burlington Free Press, be printed in the RECORD.

The article follows:

[From the Burlington Free Press, May 19, 1999]

WHAT ALEX KNOWS

Imagine a 13-year-old boy who finished second in the nation in an athletic event.

Vermont would know exactly how to celebrate: His parents and coaches would be praised, he would be held up as a role model for other kids, his community would be proud.

Alex Xue of Essex Junction deserves the same response, for scoring second in a nationwide math contest last week.

This remarkable performance is a tribute to his school, though schools are rarely praised these days. This success requires effective instruction year upon year.

His award is an accolade that also belongs to his parents, who support his studies. Would that more parents lavished as much time on their children's academics as they do on their sports.

The high finish is also a sign that he is a smart kid, very smart, and that is worth a great deal in the life Alex and his classmates have ahead of them.

Of course, schools cannot fix their attention solely on top students, because they must serve everyone who enters their doors. But they can recognize talent and reward performance, because it motivates other students, and because it serves as a reminder of what school is for: to learn, to strive, to fail at times and gain by the experience, and to achieve.

For his knowledge of math, statistics, geometry and more, Alex receives a $6,000 college scholarship—a fitting prize. Learning offers rewards for every student, though, not just the smartest, and education level is the clearest indicator of a person's later wages.

Won't it be fun to see what becomes of Alex and his abilities? Wouldn't it be something if society thought of every child's potential that way?●

''FRIENDS OF ROMAN LEE HRUSKA''

● Mr. HAGEL. Mr. President, I ask that the attached comments made by the Honorable Charles Thone at the memorial service for former Senator Roman Lee Hruska, be printed in the RECORD for Monday, April 26, 1999, immediately following my remarks entitled, ''Tribute to U.S. Senator Roman L. Hruska.''

The comments follow:

FRIENDS OF ROMAN LEE HRUSKA

Friends all:

First, let me, and all of you here today, recognize two special people, Millie and Carl Curtis. Sen. Curtis served all 22 years with Roman, and Senator Hruska always acknowledged that no U.S. Senator ever had a more caring, a better and more cooperative colleague anywhere—anytime. Thank you, Senator Curtis.

INTRODUCTIONS

It seems only fitting to also recognize all public officials present. It is from thence, that Roman sprung. He epitomized public service at its best. He lived it! He loved it! He honored it!

He would have been pleased to know that, at the outset here, all Judges, current & past, all Federal, State and County officials, current and past, are asked to stand for a brief silent recognition. I also want to especially recognize Governor Mike Johanns; Former Governor Kay Orr and Bill; Former Governor Ben Nelson, Former Governor and U.S. Senator Jim Exon and Pat; former Congressman John Y. McCollister and Nan; Nebraska Supreme Court Chief Justice John Hendry; Congressman Doug Bereuter and Louise; and Congressman Lee Terry. Also, a special salute to former chair of the Lancaster County Board and the lifelong Douglas Theatre skilled business partner of Roman, Russell Brehm of Lincoln and his charming wife Louise Brehm. Also, Attorney General Don Stenberg, a former Hruska staff member.

It was the British iconoclast, George B. Shaw who once wisely opined, ''No remarks from a former Governor are all that bad''—if they are short enough. Good stuff, but, in remembering Roman, I'm inclined to want to cover everything, filibuster a bit, if you please, and exhaust both your goodwill and patience, so I'll condense best I can! He was so special to me and many of you, too.

HIS WORK ETHIC

Roman's work was always his total recreation—Oh, occasionally he would superficially fish, hunt and in later years, cheer the mighty Cornhuskers on to victory! Early on, I must concede, he would have easily accepted the specious thought that ''a quarterback was a refund on the ticket.''

Many here will remember genial Dean Pohlenz, the Senator's long time and wonderful AA. He and I once seriously conspired against Roman and another very studious and important top aide to Roman, Bob Kutak. (Kutak and Harold Rock later organized Kutak-Rock, a very successful national law firm with which Roman proudly associated after leaving the Senate.) Kutak's interest and knowledge of sports made Roman look like the legendary Grantland Rice. So, Dean and I decided to reserve a table for four in the Senate Dining Room for Roman and Kutak, and then have two New York baseball stalwarts, Casey Stengel and Yogi Berra join them for lunch, ostensibly for Berra and Stengel to advise on finalizing a professional sports anti-trust bill. It didn't happen, but we figured that a recording of that awkward luncheon conversation would have gone down in history as a sports classic—of sorts.

Just a few Hruska vignettes:

DEBATE COMRADES

At Commerce High School, Roman was a star debater. His team should go down as a Hall of Famer. The team was Harry Cohen, a brilliant lawyer who was later President of the Nebraska Bar Association; Dick Robinson, another very successful lawyer, and a beloved Federal District Judge; Jerry Kutak, business tycoon, President of Guarantee Life of Hammond, Ind; and Roman. They stayed life-long friends and confidants and what a joy it was just to see the four together visiting and reminiscing.

OMAHA ROOTS

Roman loved Omaha, and he effectively promoted his town throughout his career—he was the Senate architect of its Interstate System. S.A.C. and his friend, Curtis LeMay, were also tremendous beneficiaries of his Senate Appropriation skills. Chuck Durham, Ed Owen, Morrie Jacobs, Art Storz, Don Ross, John McCollister, Peter Kiewit, Cliff and Ann Batchelder were notables as his early Omaha Betterment Co-Conspirators.

WORLD-HERALD RESPECT

He always thought the Omaha World-Herald was easily the country's best newspaper and frequently checked in with then publisher, Walt Christensen and editor, Fred Ware—and, there was also a brilliant, hard working Statehouse and Douglas County Court House Reporter named Harold Andersen, whom he respected very much. World-Herald-wise, we wonder what ever happened to Harold.

FAMILY LOVE

Family was most important to Roman. His wife and life-long partner, Victoria Kuncl Hruska was simply the best. A special wife and mother—and a political associate in a very effective low-key way—no flim-flam, no nonsense, just herself—beautiful Victoria. We last visited with able and vivacious daughter, Jana at the David City Library Dedication Ceremony. She has been suffering terribly with dreaded Lou Gehrig's disease. Her devoted husband, Charlie Fagan, is here from Maryland. Son Quentin came home several years ago and carefully cared so well for

his parents. You met the ''Big Guy'', eldest son, Roman Jr., earlier on this program—his wife is the former MaryAnn Behlen of Columbus. Many grandchildren, nieces and nephews are also here today. Ultimately, family was first for Roman—as it is with all of us.

THE CAMPAIGNER

Roman was never happier nor better showcased than when he was on those early day political campaigns. Ruth and I were visiting the other day about a particular stump speech he once made—with a partially eaten kolache in his left hand—on a Main Street corner at Schuyler during the Nebraska Republican caravan. It was indeed a powerful speech, spliced with Czech phrases and when he finished his remarks, the audience acknowledged him as if he were truly the ''second coming.'' The same result happened a couple of weeks later in a Hotel Ballroom in Broken Bow where the usually very reserved Sandhills crowd gave his at least a five minute standing ovation on his inspiring message and brilliant delivery. Oh, he could be a spell-binder deluxe, given the proper occasion.

A NEAR MISS

In the late 50's, a national search was on for a new leader of the Republican Party. The conservative kingmakers didn't publicize it, of course, but the short list came down to the two U.S. Senators with safe seats, Roman Hruska and Barry M. Goldwater of Arizona. Goldwater was ultimately designated somewhat on geography, but mostly because they determined that the TV cameras showcased Goldwater better. The rest, as they say, is history.

HE HONORED THE LAW

Most importantly, Roman Hruska's entire life revolved around the law. He lived by this creed once enunciated by Patrick Henry, ''Always honor the law because the law has honored you.''

Roman spent his first two law years studying at the University of Chicago Law School. Then he attended the Creighton Law School from which he graduated in 1929, just before the great depression hit with all its fury. He then, in the next 20 or so years, built up a substantial law practice, and from there was appointed to the Douglas County Board. He became its energetic, successful Chairman, known for his integrity and ability. He was always a prodigious worker. Even his political adversaries conceded that he achieved a lot the old fashioned way. He earned it.

Then to Congress for most of one term, then 22 years in the U.S. Senate. In the Senate, he was Minority Leader Everett M. Dirksen's right hand bower on the floor of the Senate. Dirksen—''The billion here, and a billion there guy''—called Roman his floor lawyer. Often, on major legislation, Dirksen would tell his senate colleagues if they had amendments, objections, or whatever—''Clear it with Roman.'' Roman became a skilled practitioner of the ''art of the possible'' and he closed many legislative deals for Dirksen.

EXTRAORDINARY SERVICE

It was as the ''Minority Leader'' of the Senate Judiciary Committee for almost 20 years, that Senator Hruska formally and extraordinarily honored the law.

He worked awfully hard and most effectively, to not only give fairness but structure and design to the law so it would be more effective and easier to use by Federal Judges, the Federal Court System and lawyers.

For the improvement of the rule of law, he co-sponsored the Criminal Code Reform Act of 1975 and the Criminal Justice Codification Revision and Reform Act of '73. For you lawyers here, this was a very substantial overhaul of the entire title 18 of the U.S. Code. His was the Bankruptcy Reform Act of 1978.

He, John McClelland, John Stennis, and Jim Eastland, Senior Democrat on the Committee, bonded and his working relationship with the Majority Party was always just something else, and highly unusual. For example, when he left the Senate, he had presided or co-presided over the confirmation hearings of all nine members of the U.S. Supreme Court—unprecedented in history—and that was an era of ''civility'' that seems to escape such modern day confirmation hearings. He was the principal architect of both the Omnibus Crime Control and Safe Streets Act of 1968 and the Organized Crime Control Act of 1970. In 1972 and the years following, he served as Chairman of the Federal Commission on the Revision of the Federal Court Appellate System of the U.S. and I could go on; suffice it to say that for several years, no Justice Department initiative, no Federal Judgeship, no major legislation moved out of the Senate Judiciary Committee until it had received his careful scrutiny and approval. Throughout, he honored the law, and he honored the Senate as an Institution. Roman's fingerprints, literally, were all over everything processed by Judiciary during these years.

ROMAN WAS SPECIAL

Let me say in closing, that we are not here for Roman, we are here for us. We need this—he doesn't! Whatever comes to us after the moment of our earthly death is beyond our understanding.

So, we remain here alive, confused and disconcerted. Above all, let's remember this about him:

Grace was in his soul, a smile and kind word were on his lips and friendship was in his heart always.

First, last, and always, he was a gentleman.

These words are so true for Roman, and perhaps, just perhaps, they alone might be a fitting eulogy. And, as a very recent World-Herald editorial writer noted: ''The standards for integrity and service that Sen. Hruska set for himself, will long stand as his most fitting memorial''.

A quick postscript paraphrasing beautiful Ecclasiastes, Chapter III, ''to everything there is a season and a time for every purpose under heaven . . . A time to plant, and a time to harvest, a time to be born and a time to die.''

Roman, you had a long and superlative life, and we're all a little better because you cared and touched us.

In Czech—Nas Dar—Good Bye—Dear Roman . . .

RETIREMENT OF MAJOR GENERAL DAVID W. GAY

• Mr. LIEBERMAN. Mr. President, I rise today to bring to the attention of Senators the retirement of Major General David W. Gay, Adjutant General of the Connecticut National Guard, after a military career that has spanned more than 40 years.

The recipient of many military awards and honors, including the Army Distinguished Service Medal, the Legion of Merit Award, and the National Guard Bureau's Eagle Award, General Gay has been a valuable friend to me and all the people of Connecticut. His experience and dedication have helped make the Connecticut National Guard the exemplary organization that it is today.

General Gay's contributions to the state go far beyond his command of both the Army and Air National Guard. His record of community service equals his record of military service and his participation in such activities as the Nutmeg State Games and the Character Counts State Advisory Board demonstrate his love for the community he calls home.

Even in retirement, General Gay will continue to work for the people of Connecticut as the state's Year 2000 Coordinator. I am happy to extend my thanks to General Gay for his years of distinguished service and offer my best wishes in his retirement.•

SUPPORT FOR S. RES. 99

• Mr. REID. Mr. President, I ask that the attached letter of support from the American Psychological Association be printed in the RECORD in support of S. Res. 99.

The letter follows:

AMERICAN PSYCHOLOGICAL ASSOCIATION,
Washington, DC, May 10, 1999.

Hon. HARRY REID,
U.S. Senate,
Washington, DC.

DEAR SENATOR REID: On behalf of the 159,000 members and affiliates of the American Psychological Association (APA), I want to express support for your proposed Senate Resolution that would designate November 20, 1999, as ''National Survivors for Prevention of Suicide Day.''

The APA is concerned that suicide rates among young adolescents, African American males, American Indians/Alaskan Natives, and the elderly have increased dramatically in recent years. Since the 1950's, suicide rates among youth have nearly tripled. Between 1980 and 1990, the suicide rate increased by 30 percent in the 10- to 19-year-old age group. Suicide is the second leading cause of death for 15- to 24-year-old American Indians and Alaskan Natives. For Americans age 65 and older, the suicide rate increased by nine percent between 1980 and 1992 Elderly Americans comprise about 13 percent of the country's population but account for about 20 percent of all suicides.

Suicide is the eighth leading cause of death in the United States—our country is in dire need of a national effort to prevent suicide. In response to that need, the Surgeon General has been working with mental health advocates to develop a National Strategy for the Prevention of Suicide and is expected to publish a final version of the coordinated strategy later this year.

Your proposed Senate resolution would serve to further the intent of S. Res. 84, which you successfully introduced in the last Congress, to recognize suicide as a national problem and declare suicide prevention as a national priority. The proposed resolution would acknowledge the trauma of those who have suffered the loss of a loved one from suicide (suicide survivors) and the support they derive from one another. Their active involvement individually and through organizations has been instrumental in efforts to reduce suicide through research, education, and treatment programs.

In closing, the APA lends its support to you and other members of Congress in securing passage of this resolution. We also look forward to learning more about the administration's initiatives at the upcoming hearing on the National Strategy for the Prevention

of Suicide before the Appropriations Subcommittee on Labor-Health and Human Services-and Education.

With best regards,

RAYMOND D. FOWLER, Ph.D.,
Executive Vice President and Chief Executive Officer.●

SMALL BUSINESS ADMINISTRATION'S PERSON OF THE YEAR: MR. GREGORY SULLIVAN

● Mr. ASHCROFT. Mr. President, it is with great pride that I stand before this body today to congratulate a truly remarkable Missourian, Mr. Gregory Sullivan—the Small Business Administration's Person of the Year. Mr. Sullivan founded G.A. Sullivan in 1982 with just $300 in start-up capital. Today, it is one of the fastest growing technology companies in the nation. This custom software company has appeared on Inc. Magazine's 500 list of fastest growing companies for the past two years. G.A. Sullivan also is leader in the St. Louis community—ranking among the top seven fastest growing technology companies in St. Louis for the past three consecutive years.

In reading Greg's story, I was intrigued by his biggest challenge. To me it shows the remarkable risks taken by America's entrepreneurs. Ten years after starting the company—after paying his dues programming computers and building the foundation of the business—he knew that there would be a huge growth in information technology industry. At that point, he had to decide on his business' future. In December 1992, he decided to go forward with an aggressive business expansion program. He engaged an advertising agency, developed a business plan, designed a logo, hired a marketing consultant to build a sales staff and started aggressively recruiting technical talent. Since that time, sales have grown over 1,400 percent and he now employs nearly 175 people—his clear vision paid off.

While Greg's custom software development services company provides leading edge information technology in the business arena—he personally is a leader in the community. He was recently appointed Vice Chairman of Science and Technology for the St. Louis Regional Commerce and Growth Association. I understand that he personally conducts workshops on résumé writing skills, interviewing and networking to help students be competitive in the after-graduation job market. He also has established the G.A. Sullivan Scholarship fund.

Mr. Sullivan is the 36th recipient of this annual entrepreneurial award. He was selected from a field of 53 state small business persons of the year winners representing the 50 states, the District of Columbia, Puerto Rico and Guam. The national entrepreneur award is the highlight of the Small Business Administration's national Small Business Week celebration. Small Business Week honors contributions of the nation's small business owners who are the backbone of this great nation. The SBA selects winners on their record of stability, growth in employment and sales, sound financial status, innovation, and the company's response to adversity and community service.

It honors me to stand before you today to congratulate Mr. Sullivan as the Small Business Administration's Person of the Year. Mr. Sullivan exemplifies the ''American Dream,'' and is living proof that with hard work and dedication any one individual can succeed.●

SALUTE TO LOIS BODOKY

● Mr. LEAHY. Mr. President, I salute a longtime Vermont businesswoman, and a fixture on Burlington's Church Street Marketplace, Mrs. Lois Bodoky.

Lois is affectionately known in Burlington as the ''Hot Dog Lady'', for she recently celebrated the 25th anniversary of her business running a hot dog cart in downtown Burlington.

Lois went into the hot dog business not long after her hair salon was lost in a fire, and at the same time I was running my first campaign for U.S. Senator. Back then, Church Street was a typical Vermont downtown, and Lois operated her cart on the sidewalk as cars and buses passed on the street. Now, her cart is in a prime spot on Church Street Marketplace, which became a pedestrian mall in the early 1980's, and is one of Vermont's prime shopping areas.

Since Lois went into business, downtown Burlington has seen many changes, but the ''Hot Dog Lady's'' cart has remained a fixture, even in some of Vermont's coldest months. She is truly a Burlington institution and is most reliable to members of the downtown crowd who cannot let a lunch hour pass without a lunch from Lois.●

WESTPORT VOLUNTEER EMERGENCY SERVICES

● Mr. LIEBERMAN. Mr. President, I rise today to formally congratulate Westport Volunteer Emergency Services on its 20th Anniversary. The fine men and women who founded, operate, and support this organization have distinguished themselves as one the pillars on which the principles of community service rest.

The EMS team has truly been an asset to the town of Westport and has had a profound impact on the individuals and families who have benefited from its experience and training. Its quick service and professional response has made it one of the state's most well-respected EMS corps. We have all been taught that we have an obligation to help our neighbors in need, but this organization has truly taken this credo to heart and has earned commendation for the lives it has saved, the families it has assisted, and the time it has contributed to improving the entire community.

I give special congratulations to the 23 original members and staff of WVEMS who are still active today. They should be very proud of the positive impact of this organization, and I am certain that they appreciate more than anyone the growth and development of this outstanding EMS corps.

Westport EMS provides immediate, front-line assistance that is so valuable to our neighbors in needs and does so on a volunteer basis. Its efforts have made a difference to children and adults alike over these last two decades and done more than its part to improve the Town of Westport. I an confident that Westport Volunteer Emergency Medical Services will continue its sterling record of service far into the future.●

SATELLITE HOME VIEWERS IMPROVEMENT ACT

On May 20, 1999, the Senate amended and passed H.R. 1554, the Satellite Home Viewers Improvement Act, as follows:

Resolved, That the bill from the House of Representatives (H.R. 1554) entitled ''An Act to amend the provisions of title 17, United States Code, and the Communications Act of 1934, relating to copyright licensing and carriage of broadcast signals by satellite.'', do pass with the following amendment:

Strike out all after the enacting clause and insert:

TITLE I—SATELLITE HOME VIEWERS IMPROVEMENTS ACT

SEC. 101. SHORT TITLE.

This title may be cited as the ''Satellite Home Viewers Improvements Act''.

SEC. 102. LIMITATIONS ON EXCLUSIVE RIGHTS; SECONDARY TRANSMISSIONS BY SATELLITE CARRIERS WITHIN LOCAL MARKETS.

(a) IN GENERAL.—Chapter 1 of title 17, United States Code, is amended by adding after section 121 the following new section:

''§ 122. Limitations on exclusive rights; secondary transmissions by satellite carriers within local markets

''(a) SECONDARY TRANSMISSIONS OF TELEVISION BROADCAST STATIONS BY SATELLITE CARRIERS.—A secondary transmission of a primary transmission of a television broadcast station into the station's local market shall be subject to statutory licensing under this section if—

''(1) the secondary transmission is made by a satellite carrier to the public;

''(2) the secondary transmission is permissible under the rules, regulations, or authorizations of the Federal Communications Commission; and

''(3) the satellite carrier makes a direct or indirect charge for the secondary transmission to—

''(A) each subscriber receiving the secondary transmission; or

''(B) a distributor that has contracted with the satellite carrier for direct or indirect delivery of the secondary transmission to the public.

''(b) REPORTING REQUIREMENTS.—

''(1) INITIAL LISTS.—A satellite carrier that makes secondary transmissions of a primary transmission made by a network station under subsection (a) shall, within 90 days after commencing such secondary transmissions, submit to the network that owns or is affiliated with the network station a list identifying (by name and street address, including county and zip code) all subscribers to which the satellite carrier currently makes secondary transmissions of that primary transmission.

''(2) SUBSEQUENT LISTS.—After the list is submitted under paragraph (1), the satellite carrier shall, on the 15th of each month, submit to the network a list identifying (by name and street address, including county and zip code) any subscribers who have been added or dropped as subscribers since the last submission under this subsection.

''(3) USE OF SUBSCRIBER INFORMATION.—Subscriber information submitted by a satellite carrier under this subsection may be used only for the purposes of monitoring compliance by the satellite carrier with this section.

''(4) REQUIREMENTS OF STATIONS.—The submission requirements of this subsection shall apply to a satellite carrier only if the network to whom the submissions are to be made places on file with the Register of Copyrights a document identifying the name and address of the person to whom such submissions are to be made. The Register shall maintain for public inspection a file of all such documents.

''(c) NO ROYALTY FEE REQUIRED.—A satellite carrier whose secondary transmissions are subject to statutory licensing under subsection (a) shall have no royalty obligation for such secondary transmissions.

''(d) NONCOMPLIANCE WITH REPORTING REQUIREMENTS.—Notwithstanding subsection (a), the willful or repeated secondary transmission to the public by a satellite carrier into the local market of a television broadcast station of a primary transmission made by that television broadcast station and embodying a performance or display of a work is actionable as an act of infringement under section 501, and is fully subject to the remedies provided under sections 502 through 506 and 509, if the satellite carrier has not complied with the reporting requirements of subsection (b).

''(e) WILLFUL ALTERATIONS.—Notwithstanding subsection (a), the secondary transmission to the public by a satellite carrier into the local market of a television broadcast station of a primary transmission made by that television broadcast station and embodying a performance or display of a work is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506 and sections 509 and 510, if the content of the particular program in which the performance or display is embodied, or any commercial advertising or station announcement transmitted by the primary transmitter during, or immediately before or after, the transmission of such program, is in any way willfully altered by the satellite carrier through changes, deletions, or additions, or is combined with programming from any other broadcast signal.

''(f) VIOLATION OF TERRITORIAL RESTRICTIONS ON STATUTORY LICENSE FOR TELEVISION BROADCAST STATIONS.—

''(1) INDIVIDUAL VIOLATIONS.—The willful or repeated secondary transmission to the public by a satellite carrier of a primary transmission made by a television broadcast station and embodying a performance or display of a work to a subscriber who does not reside in that station's local market, and is not subject to statutory licensing under section 119, is actionable as an act of infringement under section 501 and is fully subject to the remedies provided by sections 502 through 506 and 509, except that—

''(A) no damages shall be awarded for such act of infringement if the satellite carrier took corrective action by promptly withdrawing service from the ineligible subscriber; and

''(B) any statutory damages shall not exceed $5 for such subscriber for each month during which the violation occurred.

''(2) PATTERN OF VIOLATIONS.—If a satellite carrier engages in a willful or repeated pattern or practice of secondarily transmitting to the public a primary transmission made by a television broadcast station and embodying a performance or display of a work to subscribers who do not reside in that station's local market, and are not subject to statutory licensing under section 119, then in addition to the remedies under paragraph (1)—

''(A) if the pattern or practice has been carried out on a substantially nationwide basis, the court shall order a permanent injunction barring the secondary transmission by the satellite carrier of the primary transmissions of that television broadcast station (and if such television broadcast station is a network station, all other television broadcast stations affiliated with such network), and the court may order statutory damages not exceeding $250,000 for each 6-month period during which the pattern or practice was carried out; and

''(B) if the pattern or practice has been carried out on a local or regional basis with respect to more than one television broadcast station (and if such television broadcast station is a network station, all other television broadcast stations affiliated with such network), the court shall order a permanent injunction barring the secondary transmission in that locality or region by the satellite carrier of the primary transmissions of any television broadcast station, and the court may order statutory damages not exceeding $250,000 for each 6-month period during which the pattern or practice was carried out.

''(g) BURDEN OF PROOF.—In any action brought under subsection (d), (e), or (f), the satellite carrier shall have the burden of proving that its secondary transmission of a primary transmission by a television broadcast station is made only to subscribers located within that station's local market.

''(h) GEOGRAPHIC LIMITATIONS ON SECONDARY TRANSMISSIONS.—The statutory license created by this section shall apply to secondary transmissions to locations in the United States, and any commonwealth, territory, or possession of the United States.

''(i) EXCLUSIVITY WITH RESPECT TO SECONDARY TRANSMISSIONS OF BROADCAST STATIONS BY SATELLITE TO MEMBERS OF THE PUBLIC.—No provision of section 111 or any other law (other than this section and section 119) shall be construed to contain any authorization, exemption, or license through which secondary transmissions by satellite carriers of programming contained in a primary transmission made by a television broadcast station may be made without obtaining the consent of the copyright owner.

''(j) DEFINITIONS.—In this section—

''(1) The term 'distributor' means an entity which contracts to distribute secondary transmissions from a satellite carrier and, either as a single channel or in a package with other programming, provides the secondary transmission either directly to individual subscribers or indirectly through other program distribution entities.

''(2) The term 'local market' for a television broadcast station has the meaning given that term under rules, regulations, and authorizations of the Federal Communications Commission relating to carriage of television broadcast signals by satellite carriers.

''(3) The terms 'network station', 'satellite carrier' and 'secondary transmission' have the meaning given such terms under section 119(d).

''(4) The term 'subscriber' means an entity that receives a secondary transmission service by means of a secondary transmission from a satellite and pays a fee for the service, directly or indirectly, to the satellite carrier or to a distributor.

''(5) The term 'television broadcast station' means an over-the-air, commercial or noncommercial television broadcast station licensed by the Federal Communications Commission under subpart E of part 73 of title 47, Code of Federal Regulations.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections for chapter 1 of title 17, United States Code, is amended by adding after the item relating to section 121 the following:

''122. Limitations on exclusive rights; secondary transmissions by satellite carriers within local market.''.

SEC. 103. EXTENSION OF EFFECT OF AMENDMENTS TO SECTION 119 OF TITLE 17, UNITED STATES CODE.

Section 4(a) of the Satellite Home Viewer Act of 1994 (17 U.S.C. 119 note; Public Law 103–369; 108 Stat. 3481) is amended by striking ''December 31, 1999'' and inserting ''December 31, 2004''.

SEC. 104. COMPUTATION OF ROYALTY FEES FOR SATELLITE CARRIERS.

Section 119(c) of title 17, United States Code, is amended by adding at the end the following new paragraph:

''(4) REDUCTION.—

''(A) SUPERSTATION.—The rate of the royalty fee in effect on January 1, 1998 payable in each case under subsection (b)(1)(B)(i) shall be reduced by 30 percent.

''(B) NETWORK.—The rate of the royalty fee in effect on January 1, 1998 payable under subsection (b)(1)(B)(ii) shall be reduced by 45 percent.

''(5) PUBLIC BROADCASTING SERVICE AS AGENT.—For purposes of section 802, with respect to royalty fees paid by satellite carriers for retransmitting the Public Broadcasting Service satellite feed, the Public Broadcasting Service shall be the agent for all public television copyright claimants and all Public Broadcasting Service member stations.''.

SEC. 105. DEFINITIONS.

Section 119(d) of title 17, United States Code, is amended by striking paragraph (10) and inserting the following:

''(10) UNSERVED HOUSEHOLD.—The term 'unserved household', with respect to a particular television network, means a household that cannot receive, through the use of a conventional outdoor rooftop receiving antenna, an over-the-air signal of grade B intensity (as defined by the Federal Communications Commission) of a primary network station affiliated with that network or is not otherwise eligible to receive directly from a satellite carrier a signal of that television network (other than a signal provided under section 122) in accordance with section 338 of the Communications Act of 1934.''.

SEC. 106. PUBLIC BROADCASTING SERVICE SATELLITE FEED.

(a) SECONDARY TRANSMISSIONS.—Section 119(a)(1) of title 17, United States Code, is amended—

(1) by striking the paragraph heading and inserting ''(1) SUPERSTATIONS AND PBS SATELLITE FEED.—'';

(2) by inserting ''or by the Public Broadcasting Service satellite feed'' after ''superstation''; and

(3) by adding at the end the following: ''In the case of the Public Broadcasting Service satellite feed, the compulsory license shall be effective until January 1, 2002.''.

(b) DEFINITIONS.—Section 119(d) of title 17, United States Code, is amended—

(1) by amending paragraph (9) to read as follows:

''(9) SUPERSTATION.—The term 'superstation'—

''(A) means a television broadcast station, other than a network station, licensed by the Federal Communications Commission that is secondarily transmitted by a satellite carrier; and

''(B) includes the Public Broadcasting Service satellite feed.''; and

(2) by adding at the end the following:

''(12) PUBLIC BROADCASTING SERVICE SATELLITE FEED.—The term 'Public Broadcasting Service satellite feed' means the national satellite feed distributed by the Public Broadcasting Service consisting of educational and informational programming intended for private home viewing, to which the Public Broadcasting Service holds national terrestrial broadcast rights.''.

SEC. 107. APPLICATION OF FEDERAL COMMUNICATIONS COMMISSION REGULATIONS.

Section 119(a) of title 17, United States Code, is amended—

(1) in paragraph (1), by inserting ''is permissible under the rules, regulations, and authorizations of the Federal Communications Commission,'' after ''satellite carrier to the public for private home viewing,'';

(2) in paragraph (2), by inserting ''is permissible under the rules, regulations, and authorizations of the Federal Communications Commission,'' after ''satellite carrier to the public for private home viewing,''; and

(3) by adding at the end the following:

''(11) STATUTORY LICENSE CONTINGENT ON COMPLIANCE WITH FCC RULES AND REMEDIAL STEPS.—The willful or repeated secondary transmission to the public by a satellite carrier of a primary transmission made by a broadcast station licensed by the Federal Communications Commission is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506 and 509, if, at the time of such transmission, the satellite carrier is not in compliance with the rules, regulations, and authorizations of the Federal Communications Commission concerning the carriage of television broadcast station signals.''.

SEC. 108. TELEVISION BROADCAST STATION STANDING.

Section 501 of title 17, United States Code, is amended by adding at the end the following:

''(f) With respect to any secondary transmission that is made by a satellite carrier of a primary transmission embodying the performance or display of a work and is actionable as an act of infringement under section 122, a television broadcast station holding a copyright or other license to transmit or perform the same version of that work shall, for purposes of subsection (b) of this section, be treated as a legal or beneficial owner if such secondary transmission occurs within the local market of that station.''.

SEC. 109. MORATORIUM ON COPYRIGHT LIABILITY.

Until December 31, 1999, no subscriber, as defined under section 119(d)(8) of title 17, United States Code, located within the predicted Grade B contour of a local network television broadcast station shall have satellite service of a distant network signal affiliated with the same network terminated, if that subscriber received satellite service of such network signal before July 11, 1998, as a result of section 119 of title 17, United States Code.

SEC. 110. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect on January 1, 1999, except the amendments made by section 104 shall take effect on July 1, 1999.

TITLE II—SATELLITE TELEVISION ACT OF 1999

SEC. 201. SHORT TITLE.

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

SEC. 202. FINDINGS.

The Congress makes the following findings:

(1) In the Cable Television Consumer Protection and Competition Act of 1992, Congress stated its policy of promoting competition in cable services and making available to the public a diversity of views and information through cable television and other video media.

(2) In the Telecommunications Act of 1996, Congress stated its policy of securing lower prices and higher quality service for American telecommunications consumers and encouraging the rapid deployment of new telecommunications technologies.

(3) In most places throughout America, cable television system operators still do not face effective competition from other providers of multichannel video service.

(4) Absent effective competition, the market power exercised by cable television operators enables them to raise the price of cable service to consumers, and to control the price and availability of cable programming services to other multichannel video service providers. Current Federal Communications Commission rules have been inadequate in constraining cable price increases.

(5) Direct-to-home satellite service has over 8 million subscribers and constitutes the most significant competitive alternative to cable television service.

(6) Direct-to-home satellite service currently suffers from a number of statutory, regulatory, and technical barriers that keep it from being an effective competitor to cable television in the provision of multichannel video services.

(7) The most prominent of these barriers is the inability to provide subscribers with local television broadcast signals by satellite.

(8) Permitting providers of direct-to-home satellite service to retransmit local television signals to their subscribers would greatly enhance the ability of direct-to-home satellite service providers to compete more effectively in the provision of multichannel video services.

(9) Due to capacity limitations and in the interest of providing service in as many markets as possible, providers of direct-to-home satellite service, unlike cable television systems, cannot at this time carry all local television broadcast signals in all the local television markets they seek to serve.

(10) It would be in the public interest for providers of direct-to-home satellite service to fully comply with the mandatory signal carriage rules at the earliest possible date. In the interim, requiring full compliance with the mandatory signal carriage rules would substantially limit the ability of direct-to-home satellite service providers to compete in the provision of multichannel video services and would not serve the public interest.

(11) Maintaining the viability of free, local, over-the-air television service is a matter of preeminent public interest.

(12) All subscribers to multichannel video services should be able to receive the signal of at least one station affiliated with each of the major broadcast television networks.

(13) Millions of subscribers to direct-to-home satellite service currently receive the signals of network-affiliated stations not located in these subscribers' local television markets. Where conventional rooftop antennas cannot provide satisfactory reception of local stations, distant network signals may be these subscribers' only source of network television service.

(14) The widespread carriage of distant network stations in local network affiliates' markets could harm the local stations' ability to serve their local community.

(15) Abrupt termination of satellite carriers' provision of distant network signals could have a negative impact on the ability of direct-to-home satellite service to compete effectively in the provision of multichannel video services.

(16) The public interest would be served by permitting direct-to-home satellite service providers to continue existing carriage of a distant network affiliate station's signal where—

(A) there is no local network affiliate;

(B) the local network affiliate cannot be adequately received off-air; or

(C) continued carriage would not harm the local network station.

SEC. 203. PURPOSE.

The purpose of this title is to promote competition in the provision of multichannel video services while protecting the availability of free, local, over-the-air television, particularly for the 22 percent of American television households that do not subscribe to any multichannel video programming service.

SEC. 204. MUST-CARRY FOR SATELLITE CARRIERS RETRANSMITTING TELEVISION BROADCAST SIGNALS.

Part I of title III of the Communications Act of 1934 (47 U.S.C. 301 et seq.) is amended by adding at the end thereof the following:

''SEC. 338. CARRIAGE OF LOCAL TELEVISION STATIONS BY SATELLITE CARRIERS.

''(a) APPLICATION OF MANDATORY CARRIAGE TO SATELLITE CARRIERS.—The mandatory carriage provisions of sections 614 and 615 of this Act will apply in a local market no later than January 1, 2002, to satellite carriers retransmitting any television broadcast station in that local market pursuant to the compulsory license provided by section 122 of title 17, United States Code.

''(b) GOOD SIGNAL REQUIRED.—

''(1) COSTS.—A television broadcast station eligible for carriage under subsection (a) may be required to bear the costs associated with delivering a good quality signal to the designated local receive facility of the satellite carrier. The selection of a local receive facility by a satellite carrier shall not be made in a manner that frustrates the purposes of this Act. The Commission shall implement the requirements of this section without imposing any undue economic burden on any party.

''(2) RULEMAKING REQUIRED.—The Commission shall adopt rules implementing paragraph (1) within 180 days after the date of enactment of the Satellite Television Act of 1999.

''(c) CABLE TELEVISION SYSTEM DIGITAL SIGNAL CARRIAGE NOT COVERED.—Nothing in this section applies to the carriage of the digital signals of television broadcast stations by cable television systems.

''(d) DEFINITIONS.—In this section:

''(1) TELEVISION BROADCAST STATION.—The term 'television broadcast station' means a full power local television broadcast station, but does not include a low-power or translator television broadcast station.

''(2) NETWORK STATION.—The term 'network station' means a television broadcast station that is owned or operated by, or affiliated with, a broadcasting network.

''(3) BROADCASTING NETWORK.—The term 'broadcasting network' means a television network in the United States which offers an interconnected program service on a regular basis for 15 or more hours per week to at least 25 affiliated broadcast stations in 10 or more States.

''(4) DISTANT TELEVISION STATION.—The term 'distant television station' means any television broadcast station that is not licensed and operating on a channel regularly assigned to the local television market in which a subscriber to a direct-to-home satellite service is located.

''(5) LOCAL MARKET.—The term 'local market' means the designated market area in which a station is located. For a noncommercial educational television broadcast station, the local market includes any station that is licensed to a community within the same designated market area as the noncommercial educational television broadcast station.

''(6) SATELLITE CARRIER.—The term 'satellite carrier' has the meaning given it by section 119(d) of title 17, United States Code.

''SEC. 339. CARRIAGE OF DISTANT TELEVISION STATIONS BY SATELLITE CARRIERS.

''(a) PROVISIONS RELATING TO NEW SUBSCRIBERS.—

''(1) IN GENERAL.—Except as provided in subsection (d), direct-to-home satellite service providers shall be permitted to provide the signals of 1 affiliate of each television network to any household that initially subscribed to direct-to-home satellite service on or after July 10, 1998.

''(2) ELIGIBILITY DETERMINATION.—The determination of a new subscriber's eligibility to receive the signals of one or more distant network stations as a component of the service provided pursuant to paragraph (a) shall be made by ascertaining whether the subscriber resides within the predicted Grade B service area of a

local network station. The Individual Location Longley-Rice methodology described by the Commission in Docket 98-201 shall be used to make this determination. A direct-to-home satellite service provider may provide the signal of a distant network station to any subscriber determined by this method to be unserved by a local station affiliated with that network.

''(3) RULEMAKING REQUIRED.—

''(A) Within 90 days after the date of enactment of the Satellite Television Act of 1999, the Commission shall adopt procedures that shall be used by any direct-to-home satellite service subscriber requesting a waiver to receive one or more distant network signals. The waiver procedures adopted by the Commission shall—

''(i) impose no unnecessary burden on the subscriber seeking the waiver;

''(ii) allocate responsibilities fairly between direct-to-home satellite service providers and local stations;

''(iii) prescribe mandatory time limits within which direct-to-home satellite service providers and local stations shall carry out the obligations imposed upon them; and

''(iv) prescribe that all costs of conducting any measurement or testing shall be borne by the direct-to-home satellite service provider, if the local station's signal meets the prescribed minimum standards, or by the local station, if its signal fails to meet the prescribed minimum standards.

''(4) PENALTY FOR VIOLATION.—Any direct-to-home satellite service provider that knowingly and willfully provides the signals of 1 or more distant television stations to subscribers in violation of this section shall be liable for forfeiture in the amount of $50,000 per day per violation.

''(b) PROVISIONS RELATING TO EXISTING SUBSCRIBERS.—

''(1) MORATORIUM ON TERMINATION.—Until December 31, 1999, any direct-to-home satellite service may continue to provide the signals of distant television stations to any subscriber located within predicted Grade A and Grade B contours of a local network station who received those distant network signals before July 11, 1998.

''(2) CONTINUED CARRIAGE.—Direct-to-home satellite service providers may continue to provide the signals of distant television stations to subscribers located between the outside limits of the predicted Grade A contour and the predicted Grade B contour of the corresponding local network stations after December 31, 1999, subject to any limitations adopted by the Commission under paragraph (3).

''(3) RULEMAKING REQUIRED.—

''(A) Within 180 days after the date of enactment of the Satellite Television Act of 1999, the Commission shall conclude a single rulemaking, compliant with subchapter II of chapter 5 of title 5, United States Code, to examine the extent to which any existing program exclusivity rules should be imposed on distant network stations provided to subscribers under paragraph (2).

''(B) The Commission shall not impose any program exclusivity rules on direct-to-home satellite service providers pursuant to subparagraph (A) unless it finds that it would be both technically and economically feasible and otherwise in the public interest to do so.

''(c) WAIVERS NOT PRECLUDED.—Notwithstanding any other provision in this section, nothing shall preclude any network stations from authorizing the continued provision of distant network signals in unaltered form to any direct-to-home satellite service subscriber currently receiving them.

''(d) CERTAIN SIGNALS.—Providers of direct-to-home satellite service may continue to carry the signals of distant network stations without regard to subsections (a) and (b) in any situation in which—

''(1) a subscriber is unserved by the local station affiliated with that network;

''(2) a waiver is otherwise granted by the local station under subsection (c); or

''(3) if the carriage would otherwise be consistent with rules adopted by the Commission in CS Docket 98-201.

''(e) REPORT REQUIRED.—Within 180 days after the date of enactment of the Satellite Television Act of 1999, the Commission shall report to Congress on methods of facilitating the delivery of local signals in local markets, especially smaller markets.''.

SEC. 205. RETRANSMISSION CONSENT.

(a) AMENDMENT OF SECTION 325(b).—Section 325(b) of the Communications Act of 1934 (47 U.S.C. 325(b)) is amended by striking the subsection designation and paragraphs (1) and (2) and inserting the following:

''(b)(1) No cable system or other multichannel video programming distributor shall retransmit the signal of a broadcasting station, or any part thereof, except—

''(A) with the express authority of the station; or

''(B) pursuant to section 614 or section 615, in the case of a station electing, in accordance with this subsection, to assert the right to carriage under that section.

''(2) The provisions of this subsection shall not apply to—

''(A) retransmission of the signal of a television broadcast station outside the station's local market by a satellite carrier directly to subscribers if—

''(i) that station was a superstation on May 1, 1991;

''(ii) as of July 1, 1998, such station's signal was transmitted under the compulsory license of section 119 of title 17, United States Code, by satellite carriers directly to at least 250,000 subscribers; and

''(iii) the satellite carrier complies with any program exclusivity rules that may be adopted by the Federal Communications Commission pursuant to section 338.

''(B) retransmission of the distant signal of a broadcasting station that is owned or operated by, or affiliated with, a broadcasting network directly to a home satellite antenna, if the subscriber resides in an unserved household; or

''(C) retransmission by a cable operator or other multichannel video programming distributor (other than by a satellite carrier direct to its subscribers) of the signal of a television broadcast station outside the station's local market, if that signal was obtained from a satellite carrier and—

''(i) the originating station was a superstation on May 1, 1991; and

''(ii) the originating station was a network station on December 31, 1997, and its signal was retransmitted by a satellite carrier directly to subscribers.

''(3) Any term used in this subsection that is defined in section 337(d) of this Act has the meaning given to it by that section.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on January 1, 1999.

SEC. 206. DESIGNATED MARKET AREAS.

Nothing in this title, or in the amendments made by this title, prevents the Federal Communications Commission from revising the listing of designated market areas or reassigning those areas if the revision or reassignment is done in the same manner and to the same extent as the Commission's cable television mandatory carriage rules provide.

SEC. 207. SEVERABILITY.

If any provision of this title or section 325(b) or 337 of the Communications Act of 1934 (47 U.S.C. 325(b) or 337, respectively), or the application of that provision to any person or circumstance, is held by a court of competent jurisdiction to violate any provision of the Constitution of the United States, then the other provisions of that section, and the application of that provision to other persons and circumstances, shall not be affected.

SEC. 208. DEFINITIONS.

In this title:

(1) TERMS DEFINED IN COMMUNICATIONS ACT OF 1934.—Any term used in this title that is defined in section 337(d) of the Communications Act of 1934, as added by section 204 of this title, has the meaning given to it by that section.

(2) DESIGNATED MARKET AREA.—The term ''designated market area'' means a designated market area, as determined by Nielsen Media Research and published in the DMA Market and Demographic Report.

ORDERS FOR MAY 25, 1999

Mr. WARNER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 on Tuesday, May 25. I further ask consent that on Tuesday, immediately following the prayer, the Journal of the proceedings be approved to date, the morning hour be deemed to have expired, the time for the two leaders be reserved, and the Senate then resume consideration of S. 1059 as under that order.

I further ask unanimous consent that at the hour of 12:30 p.m. the Senate stand in recess until the hour of 2:15 p.m. in order for the party caucuses to meet.

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

Mr. WARNER. Mr. President, I ask unanimous consent that no additional amendments be in order, other than the amendments agreed to in the previous consent, prior to the votes at 2:15 p.m. on Tuesday.

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

PROGRAM

Mr. WARNER. For the information of all Senators, the Senate will resume consideration of the Defense Authorization bill tomorrow. Under the order, the Senate will debate several amendments, with the votes on those amendments occurring in a stacked sequence beginning at 2:15 p.m. Tuesday afternoon. All Senators should, therefore, expect at least three votes occurring at 2:15. It is the intention of the majority leader to complete action on this bill as early as possible this week.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. WARNER. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:33 p.m., adjourned until Tuesday, May 25, 1999, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate May 24, 1999:

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

PAUL STEVEN MILLER, OF CALIFORNIA, TO BE A MEMBER OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR A TERM EXPIRING JULY 1, 2004. (REAPPOINTMENT)

IN THE AIR FORCE

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. WILLIAM J. BEGERT, 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. CHARLES R. HOLLAND, 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. MAXWELL C. BAILEY, 0000

IN THE ARMY

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, Chaplain Corps

COL. DAVID H. HICKS, 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be admiral

VICE ADM. THOMAS B. FARGO, 0000

WITHDRAWAL

Executive message transmitted by the President to the Senate on May 24, 1999, withdrawing from further Senate consideration the following nomination:

DEPARTMENT OF STATE

J. BRIAN ATWOOD, OF THE DISTRICT OF COLUMBIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO BRAZIL, WHICH WAS SENT TO THE SENATE ON JANUARY 6, 1999.